

§ 428.8

you did not submit RRA forms as required by this part, we will assess administrative costs against the district as specified in § 426.20(e) of this chapter. We will determine these costs in the same manner used to determine costs for landholders under §§ 426.20(a)(1) through (3) of this chapter.

§ 428.8 What can happen if a farm operator makes false statements on the required forms.

If you make a false statement on the required RRA form(s), Reclamation can prosecute you under the following statement:

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to \$10,000, or both, for any person knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction. False statements by the farm operator will also result in loss of eligibility. Eligibility can only be regained upon the approval of the Commissioner.

§ 428.9 Farm operators who are former owners of excess land.

(a) Land held in trust or by a legal entity may not receive irrigation water if:

- (1) You owned the land when the land was excess, whether or not under recordable contract;
- (2) You sold or transferred the land at a price approved by Reclamation; and
- (3) You are the direct or indirect farm operator of that land.

(b) This section does not apply if:

- (1) The formerly excess land becomes exempt from the acreage limitations of Federal reclamation law; or
- (2) The full-cost rate is paid for any irrigation water delivered to your formerly excess land that is otherwise eligible to receive irrigation water. If you are a part owner of a legal entity that is the direct or indirect farm operator of the land in question, then the full-cost rate will apply to the proportional share of the land that reflects your interest in that legal entity.

43 CFR, Subtitle B, Ch. I (10-1-06 Edition)

§ 428.10 Districts' responsibilities concerning certain formerly excess land.

Districts must not make irrigation water available to formerly excess land that meets the criteria under § 428.9(a), unless an exception provided in § 428.9(b) applies.

§ 428.11 Effective date.

(a) All provisions of this part apply on January 1, 2001, except:

(1) For those districts whose 2001 water year commences prior to January 1, 2001, the applicability date of §§ 428.1 through 428.8 is October 1, 2000.

(b) On January 1, 2001, this part applies to all farm operating arrangements between farm operators and trusts or legal entities that:

- (1) Are then in effect; or
- (2) Are initiated on, or after, January 1, 2001.

PART 429—PROCEDURE TO PROCESS AND RECOVER THE VALUE OF RIGHTS-OF-USE AND ADMINISTRATIVE COSTS INCURRED IN PERMITTING SUCH USE

Sec.

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AUTHORITY: 43 U.S.C. 373 (32 Stat. 390); 43 U.S.C. 387 (53 Stat. 1196), as amended by 64 Stat. 463, c. 752 (1950); Department of the Interior Manual Part 346, Chapters 1, 2, 3, and 4; 43 U.S.C. 501; Independent Offices Appropriation Act (31 U.S.C. 483a); and Budget Circular A-25, as amended by transmittal memorandums 1 and 2 of Oct. 22, 1963, and April 16, 1974.

SOURCE: 48 FR 56223, Dec. 20, 1983, unless otherwise noted.

Bureau of Reclamation, Interior

§ 429.2

§ 429.1 Purpose.

The purpose of this part is to notify the public that any possession or occupancy of any portion of and the extraction or disturbance of any natural resources from Reclamation facilities, lands, or waterbodies are prohibited without written authorization from Reclamation, except for the legal harvest or collection of fish, wildlife, or plant material in conformance with applicable Federal, state, and local laws. Written authorizations must meet the requirements of the Independent Offices Appropriation Act (31 U.S.C. 483a) and Office of Management and Budget Circular A-25, as amended; both of which require that Reclamation recover both the fair market value of rights-of-use granted to applicants and the administrative costs associated with the issuing of rights-of-use on facilities, lands, and waterbodies administered by Reclamation. This part also refers to costs incurred by Reclamation when, at the request of other agencies and parties, Reclamation gives aid and assistance in rights-of-use matters.

[71 FR 19802, Apr. 17, 2006]

§ 429.2 Definitions.

As used in this part:

(a) *Commissioner* means the Commissioner of the Bureau of Reclamation or his designated representative.

(b) *Reclamation* means the Bureau of Reclamation.

(c) *Regional Director* means any one of the Reclamation Regional Directors designated by the Commissioner to act in specified rights-of-use actions. The Regional Directors may re-delegate portions of their authorities for granting rights-of-use to officers and employees of Reclamation.

(d) *Rights-of-use* means rights-of-way, easements, permits, licenses, contracts, or agreements issued or granted non-competitively by Reclamation that authorize the possession or occupation of and the extraction or disturbance of natural resources on Reclamation facilities, lands, and waterbodies.

(e) *Other agencies or others* means all Federal, State, private individuals, partnerships, firms or corporations, and local governments agencies not connected in any way with Reclama-

tion, that request rights-of-use either directly or indirectly from Reclamation.

(f) *Rights-of-use assistance* means any assistance to obtain a use authorization given upon request to another party. Such assistance includes, but is not limited to, work in the processing of environmental requirements and the preparing, checking, and inspecting of engineering data and standards.

(g) *Value of rights-of-use* means the value of the rights, privileges, and interests granted by Reclamation for the use of land under its custody and control, as determined by an appraisal by a qualified appraiser using approved methods, in accordance with § 429.3 of this part.

(h) *Administrative costs* means all direct or indirect costs including appraisal costs if required, incurred by Reclamation in reviewing, issuing, and processing of rights-of-use requests or the assisting of others in their rights-of-use matters, calculated in accordance with the procedures established by Departmental Manual 346, "Cost Recovery," Chapters 1, 2, 3, and 4.

(i) *Grantor or Permitter* means the Bureau of Reclamation, U.S. Department of the Interior.

(j) *Grantee or User* means the agency, firm, partnership, or individual who requested and to whom is granted the right-of-use.

(k) *Documentation of administrative costs*. This documentation shall mean documentation in accordance with the provisions of part 346, chapters 1, 2, 3, and 4 of the Departmental Manual. Administrative costs will be documented through the accurate recording and accounting of costs associated with a right-of-use. This documentation shall include both direct and indirect costs, such as:

(1) Personnel costs.

(i) Direct labor.

(ii) Fringe benefits.

(iii) Additional benefits.

(2) Material costs, printing costs, and other costs related directly with a specific right-of-use.

(3) Exclusions.

(i) Management overhead.

(ii) Normal costs not directly associated with the specific right-of-use.