Bureau of Reclamation, Interior

§ 426.5 Ownership entitlement.

(a) General. Except as provided in §§ 426.12 and 426.14, all nonexempt land directly or indirectly owned by a landholder counts against that landholder’s ownership entitlement. In addition, land owned or controlled by a public entity that is leased to another party counts against the lessee’s ownership entitlement, as specified in § 426.10.

(b) Qualified recipient ownership entitlement. A qualified recipient is entitled to receive irrigation water on a maximum of 960 acres of owned nonexempt land, or the Class 1 equivalent thereof. This entitlement applies on a westwide basis.

(c) Limited recipient ownership entitlement. A limited recipient is entitled to receive irrigation water on a maximum of 640 acres of owned nonexempt land, or the Class 1 equivalent thereof. This entitlement applies on a westwide basis.

(d) Prior law recipient ownership entitlement. (1) Ownership entitlements for prior law recipients are determined by whether the recipient is one individual or a married couple, and for entities by the type of entity, as follows:

(i) An individual subject to prior law is entitled to receive irrigation water on a maximum of 160 acres of owned nonexempt land;

(ii) Married couples who hold equal interests are entitled to receive irrigation water on a maximum of 320 acres of jointly owned nonexempt land;

(iii) Surviving spouses until remarriage are entitled to receive irrigation

§ 426.4 Attribution of land.

(a) Prohibition on increasing acreage limitation entitlements. Except as specifically provided in these rules, a landholder cannot increase acreage limitation entitlements or eligibility by acquiring or holding a beneficial interest in a legal entity. Similarly, the acreage limitation status of an individual or legal entity that holds or has acquired a beneficial interest in another legal entity will not be permitted to enlarge the latter legal entity’s acreage limitation entitlements or eligibility.

(b) Attribution of owned land. For purposes of determining acreage to be counted against acreage limitation entitlements, acreage will be attributed to all:

(1) Direct landowners in proportion to the direct beneficial interest the landowners own in the land; and

(2) Indirect landowners in proportion to the indirect beneficial interest they own in the land.

(c) Attribution of leased land. Leased land will be attributed to the direct and indirect landowners as well as to the direct and indirect lessees in the same manner as described in paragraphs (b) and (d) of this section.

(d) Attribution of land held through intermediate entities. If land is held by a direct landholder and a series of indirect landholders, Reclamation will attribute that land to the acreage limitation entitlements of the direct landholder and each indirect landholder in proportion to each landholder’s beneficial interest in the entity that directly holds the land.

(e) Leasebacks. Any land a landholder directly or indirectly owns and that is directly or indirectly leased back will only count once against that particular landholder’s nonfull-cost entitlement.

(f) Effect on an entity of attribution to part owners. For purposes of determining eligibility, the entire landholding will be attributed to all the direct and indirect landholders. If the interests in a legal entity are:

(1) Undivided, then all of the indirect part owners must be eligible in order for the entity to be eligible; or

(2) Divided, in such a manner that specific parcels are attributable to each indirect landholder, then the entity may qualify for eligibility on those portions of the landholding not attributable to any part owner who is ineligible.
§ 426.6 Leasing and full-cost pricing.

(a) Conditions that a lease must meet. Districts can make irrigation water available to leased land only if the lease meets the following requirements. Land that is leased under a lease instrument that does not meet the following requirements will be ineligible to receive irrigation water until the lease agreement is terminated or modified to satisfy these requirements.

(i) The lease is in writing;

(ii) The lease includes the effective date and term of the lease, the length of which must be:

(i) 10 years or less, including any exercisable options; however, for perennial crops with an average life longer than 10 years, the term may be equal to the average life of the crop as determined by Reclamation, and

(ii) In no case may the term of a lease exceed 25 years, including any exercisable options;

(iii) The lease includes a legal description, that is at least as detailed as what is required on the standard certification and reporting forms, of the land subject to the lease;

(iv) Signatures of all parties to the lease are included;

(v) The lease includes the date(s) or conditions when lease payments are due and the amounts or the method of computing the payments due;

(vi) The lease is available for Reclamation’s inspection and Reclamation reviews and approves all leases for terms longer than 10 years; and

(vii) If either the lessor or the lessee is subject to the discretionary provisions, the lease provides for agreed upon payments that reflect the reasonable value of the irrigation water to the productivity of the land; except

(b) Nonfull-cost entitlements. (1) The nonfull-cost entitlement for qualified recipients is 960 acres, or the Class 1 equivalent thereof.

(2) The nonfull-cost entitlement for limited recipients that received irrigation water on or before October 1, 1981, is 320 acres or the Class 1 equivalent thereof. The nonfull-cost entitlement for limited recipients that did not receive irrigation water on or prior to October 1, 1981, is zero.