

§417.3

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

Colorado River water to each Contractor will not exceed those reasonably required for beneficial use under the respective Boulder Canyon Project Act contract or other authorization for use of Colorado River water.

§417.3 Notice of recommendations and determinations.

Following consultation with each Contractor and after consideration of all relevant comments and suggestions advanced by the Contractors in such consultations, the Regional Director will formulate his recommendations and determinations relating to the matters specified in §417.2. The recommendations and determinations shall, with respect to each Contractor, be based upon but not necessarily limited to such factors as the area to be irrigated, climatic conditions, location, land classifications, the kinds of crops raised, cropping practices, the type of irrigation system in use, the condition of water carriage and distribution facilities, record of water orders, and rejections of ordered water, general operating practices, the operating efficiencies and methods of irrigation of the water users, amount and rate of return flows to the river, municipal water requirements and the pertinent provisions of the Contractor's Boulder Canyon Project Act water delivery contract. The Regional Director shall give each Contractor written notice by registered or certified mail, return receipt requested, of his recommendations and determinations. If the recommendations and determinations include a reduction in the amount of water to be delivered, as compared to the calendar year immediately preceding, the notice shall be delivered to the Contractor or timely sent by registered or certified mail, return receipt requested, so that it may reasonably be delivered at least 30 days prior to the first date water delivery would be affected thereby, and shall specify the basis for such reduction including any pertinent factual determinations. The recommendations and determinations of the Regional Director shall be final and conclusive unless, within 30 days of the date of receipt of the notice, the Contractor submits his written comments and objections to the Regional Director and re-

quests further consultation. If, after such further consultation, timely taken, the Regional Director does not modify his recommendations and determinations and so advises the Contractor in writing, or if modifications are made but the Contractor still feels aggrieved thereby after notification in writing of such modified recommendations and determinations, the Contractor may, before 30 days after receipt of said notice, appeal to the Secretary of the Interior. During the pendency of such appeal, and until disposition thereof by the Secretary, the recommendations and determinations formulated by the Regional Director shall be of no force or effect. In the event delivery of water is scheduled prior to the new recommendations and determinations becoming final, said delivery shall be made according to the Contractor's currently proposed schedule or to the schedules approved for the previous calendar year, whichever is less.

§417.4 Changed conditions, emergency, or hardship modifications.

A Contractor may at any time apply in writing to the Regional Director for modification of recommendations or determinations deemed necessary because of changed conditions, emergency, or hardship. Upon receipt of such written application identifying the reason for such requested modification, the Regional Director shall arrange for consultation with the Contractor with the objective of making such modifications as he may deem appropriate under the then existing conditions. The Regional Director may initiate efforts for further consultation with any Contractor on his own motion with the objective of modifying previous recommendations and determinations, but in the event such modifications are made, the Contractor shall have the same opportunity to object and appeal as provided in §417.3 of this part for the initial recommendations and determinations. The Regional Director shall afford the fullest practicable opportunity for consultation with a Contractor when acting under this section. Each modification under this section shall be transmitted to the Contractor by letter.