landholder be based on an hourly rate that is consistent Reclamationwide.

Response: This comment has not been accommodated. Reclamation analyzed the costs it incurred in the past to address RRA form violations and has determined it is fair and reasonable to charge an average assessment that is uniform in all districts.

Comment 3: Two respondents commented that the \$260 assessment does not accurately reflect Reclamation's costs to bring landholders into compliance because Reclamation only identifies the violations; the district performs all the other work.

Response: Reclamation acknowledges that districts frequently take actions to bring landholders into compliance. However, in most cases, Reclamation also performs additional activities to address noncompliance problems. Examples of such activities were listed previously in this preamble. Districts may not be aware of these activities because they are not always conducted at the site of the district office.

Comment 4: One respondent did not think it was fair that Reclamation can adjust the administrative cost assessment every 5 years without input from the districts.

Response: The basic methodology for determining the assessment was set forth in the proposed rule, which was open for public comment. The methodology was explained again previously in this preamble. Since adjustments will generally only be made to reflect new cost data and a notice of the revised assessment will be published in the **Federal Register**, we do not think another comment period is necessary before the adjustments are made.

Comment 5: One respondent questioned whether the costs will continually increase until they are equal to the compensation rate.

Response: Reclamation's goal is to establish fair and reasonable charges to recover the costs it incurs to address RRA form violations. The process will be reexamined should the assessments ever reach a point where this goal can no longer be achieved.

Comment 6: One respondent commented that the administrative cost assessment should not be based on 1991, 1992, and 1993 costs because Reclamation keeps changing the RRA forms, which is confusing to landholders.

Response: The changes that were made to the RRA forms during 1991, 1992, and 1993 were relatively minor. Reclamation finds no evidence to support a conclusion that the

noncompliance level increased because of form revisions.

Comment 7: One respondent commented that the rule is too vague with regard to the basis for the administrative cost assessment.

Response: Reclamation agrees that the rule does not provide a detailed description of the basis for the administrative cost assessment. However, it would be inappropriate to include the complete cost analysis in either the rule or the preamble. In the final rule, the description has been deleted from § 426.24(e). However, it has been retained in the preamble so readers will be aware of the general basis for the \$260 assessment.

Comment 8: One respondent wanted clarification as to whether the administrative cost assessment is a combination of a penalty and costs incurred by Reclamation.

Response: The assessment is based strictly on Reclamation's costs and is remedial in nature. It does not include a penalty factor.

Comment 9: One respondent commented that overhead costs should not be included in the administrative cost assessment.

Response: Reclamation thinks it is reasonable to recover all additional costs incurred to address RRA form violations. Overhead costs are part of these costs; therefore, they have been included in the assessment.

Comment 10: One respondent commented that the administrative cost assessment should not include the cost of Reclamation's audits, because that is the Government's job.

Response: The assessment does not include costs for reviewing a district's compliance with the RRA or audits of individuals. It includes only those additional costs Reclamation incurs to address RRA form violations after they have been found.

Comment 11: One respondent commented that some districts are not always able to terminate deliveries of irrigation water to just those landholders that have not submitted the required RRA forms. The reason for this is that several landholders, some of whom may be in compliance, are located on the same ditch with the same delivery point.

Response: Despite the circumstances described by the respondent, districts are not permitted to deliver irrigation water to landholders that are not in compliance with the RRA form requirements. In the case described, districts may need to take extra measures to encourage all landholders located on the same ditch to submit the required forms. To the extent possible,

Reclamation will work with districts to help resolve such situations.

Comment 12: Two respondents stated that Reclamation is not permitted to terminate water deliveries in cases where landholders fail to submit the required forms. The respondents maintain that landholders must first be provided with a notice or hearing before such deliveries can be terminated.

Response: These comments were not accommodated. Reclamation believes it is permitted to terminate water deliveries in such cases because: (1) Pursuant to the requirements in §§ 206, 224(c), and 228 of the RRA and § 426.10(e) of the Acreage Limitation Rules and Regulations, landholders are required to submit RRA forms as a condition for receipt of irrigation water. (2) The consequence for noncompliance with this requirement has been clearly set forth in § 426.10(k) since the Acreage Limitation Rules and Regulations were first promulgated in 1983. That is, failure to submit the required forms results in loss of eligibility to receive irrigation water by the landholder.

As stated previously, Reclamation is currently engaged in a rulemaking action in which we will review the Acreage Limitation Rules and Regulations in their entirety. As part of that rulemaking action, we will consider the comment regarding notices or hearings prior to termination of water deliveries.

Executive Order 12866

This rule does not constitute a significant regulatory action under Executive Order 12866, and therefore does not require review by the Office of Management and Budget.

National Environmental Policy Act

Neither an environmental assessment nor an environmental impact statement is required for this rulemaking because, pursuant to 40 CFR 1508.4 and Departmental Manual part 516 DM 6, Appendix 9, § 9.4.A.1, this action is categorically excluded from the provisions of the National Environmental Policy Act.

Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget as is required by 44 U.S.C. 3501 *et seq.* and assigned clearance numbers 1006–0005 and 1006–0006.

Small Entity Flexibility Analysis

Reclamation identified approximately 500 landholders with RRA form violations during the 1990, 1991, and