

43 USC Ch. 12A: BOULDER CANYON PROJECT

From Title 43—PUBLIC LANDS

CHAPTER 12A—BOULDER CANYON PROJECT

SUBCHAPTER I—BOULDER CANYON PROJECT ACT

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Act May 28, 1954, ch. 241, 68 Stat. 143, provided that:

"For the purposes of effecting economies and increased efficiency in the construction, operation, and maintenance thereof and of accounting for the return of reimbursable costs, the Secretary of the Interior is authorized and directed to consolidate and administer as a single project to be known as the Parker-Davis project, Arizona-California-Nevada, the projects known as the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada: *Provided*, That nothing in this Act shall be construed to alter or affect in any way the Boulder Canyon Project Act (45 Stat. 1057) [subchapter I of this chapter], the Boulder Canyon Project Adjustment Act (54 Stat. 774) [subchapter II of this chapter], or the treaty between the United States of America and the United Mexican States, signed at Washington on February 3, 1944, relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande from Fort Quitman, Texas, to the Gulf of Mexico: *Provided further*, That nothing in this Act shall be construed to alter or affect in any way any right or obligation of the United States or any other party under contracts heretofore entered into by the United States.

"SEC. 2. Funds heretofore appropriated for the Parker Dam power project, Arizona-California, and the Davis Dam project, Arizona-Nevada, shall be consolidated and shall be and remain available for the purposes for which they were appropriated."

SUBCHAPTER I—BOULDER CANYON PROJECT ACT

CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS SUBCHAPTER

Consolidation of Parker and Davis Dam projects as not affecting this subchapter, see note preceding this subchapter.

§617. Colorado River Basin; protection and development; dam, reservoir, and incidental works; water, water power, and electrical energy; eminent domain

For the purpose of controlling the floods, improving navigation, and regulating the flow of the Colorado River, providing for storage and for the delivery of the stored waters thereof for reclamation of public lands and other beneficial uses exclusively within the United States, and for the generation of electrical energy as a means of making the project herein authorized a self-supporting and financially solvent undertaking, the Secretary of the Interior subject to the terms of the Colorado River compact hereinafter mentioned in this chapter, is authorized to construct, operate, and maintain a dam and incidental works in the main stream of the Colorado River at Black Canyon or Boulder Canyon adequate to create a storage reservoir of a capacity of not less than twenty million acre-feet of water and a main canal and appurtenant structures located entirely within the United States connecting the Laguna Dam, or other suitable diversion dam, which the Secretary of the Interior is authorized to construct if deemed necessary or advisable by him upon engineering or economic considerations, with the Imperial and Coachella Valleys in California, the expenditures for said main canal and appurtenant structures to be reimbursable, as provided in the reclamation law, and shall not be paid out of revenues derived from the sale or disposal of water power or electric energy at the dam authorized to be constructed at said Black Canyon or Boulder Canyon, or for water for potable purposes outside of the Imperial and Coachella Valleys: *Provided, however*, That no charge shall be made for water for the use, storage, or delivery of water for irrigation or water for potable purposes in the Imperial or Coachella Valleys; also to construct and equip, operate, and maintain at or near said dam, or cause to be constructed, a complete plant and incidental structures suitable for the fullest economic development of electrical energy from the water discharged from said reservoir; and to acquire by proceedings in eminent domain, or otherwise, all lands, rights-of-way, and other property necessary for said purposes. (Dec. 21, 1928, ch. 42, §1, 45 Stat. 1057.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 617k of this title.

CHANGE OF NAME

Act Apr. 30, 1947, ch. 46, 61 Stat. 56, restored the name Hoover Dam to the dam on the Colorado River in Black Canyon known previously as Boulder Dam, and provided that any law, regulation, document, or record in which that dam is designated or referred to as Boulder Dam shall be held to refer to that dam under and by the name of Hoover Dam.

CONSTRUCTION WITH OTHER LAWS

Pub. L. 98–381, title I, §103(b), Aug. 17, 1984, 98 Stat. 1334, provided that: "Except as amended by this Act [amending sections 617a and 617b of this title], the Boulder Canyon Project Act of 1928 (45 Stat. 1057, as amended, 43 U.S.C. 617 et seq.), as amended and supplemented [this subchapter], shall remain in full force and effect."

Act Aug. 4, 1939, ch. 418, §18, provided that nothing in that act should be construed to amend the Boulder Canyon Project Act (this subchapter). See note set out under section 485j of this title.

Gila project, Arizona, as not amending this subchapter, see section 8 of Act July 30, 1947, ch. 382, 61 Stat. 628, set out as a note under section 613 of this title.

§617a. "Colorado River Dam Fund"

(a) Creation of fund; purpose; receipts and expenditures under control of Secretary of the Interior

There is established a special fund, to be known as the "Colorado River Dam fund" (hereinafter referred to as the "fund"), and to be available, as hereafter provided for, only for carrying out the provisions of this subchapter. All revenues received in carrying out the provisions of this subchapter shall be paid into and expenditures shall be made out of the fund, under the direction of the Secretary of the Interior.

(b) Advancements to fund by Secretary of the Treasury; allocation; repayment; interest

The Secretary of the Treasury is authorized to advance to the fund, from time to time and within the appropriations therefor, such amounts as the Secretary of the Interior deems necessary for carrying out the provisions of this subchapter.¹ Of this amount the sum of \$25,000,000 shall be allocated to flood control and shall be repaid to the United States out of 62½ per centum of revenues, if any, in excess of the amount necessary to meet periodical payments during the period of amortization, as provided in section 617c of this title. If said sum of \$25,000,000 is not repaid in full during the period of amortization, then 62½ per centum of all net revenues shall be applied to payment of the remainder. Interest at the rate of 4 per centum per annum accruing during the year upon the amounts so advanced and remaining unpaid shall be paid annually out of the fund, except as herein otherwise provided.

(c) Limitation on use made of advancements

Moneys in the fund advanced under subdivision (b) shall be available only for expenditures for construction and the payment of interest, during construction, upon the amounts so advanced. No expenditures out of the fund shall be made for operation and maintenance except from appropriations therefor.

(d) Unpaid interest on advancements; charge on fund; rate of interest

The Secretary of the Treasury shall charge the fund as of June 30 in each year with such amount as may be necessary for the payment of interest on advances made under subdivision (b) at the rate of 4 per centum per annum accrued during the year upon the amounts so advanced and remaining unpaid, except that if the fund is insufficient to meet the payment of interest the Secretary of the Treasury may, in his discretion, defer any part of such payment, and the amount so deferred shall bear interest at the rate of 4 per centum per annum until paid.

(e) Money in fund in excess of amount needed; certification of fact; disposition

The Secretary of the Interior shall certify to the Secretary of the Treasury, at the close of each fiscal year, the amount of money in the fund in excess of the amount necessary for construction, operation, and maintenance, and payment of interest. Upon receipt of each such certificate the Secretary of the Treasury is authorized and directed to charge the fund with the amount so certified as repayment of the advances made under subdivision (b), which amount shall be covered into the Treasury to the credit of miscellaneous receipts.

(Dec. 21, 1928, ch. 42, §2, 45 Stat. 1057; Pub. L. 98–381, title I, §103(a)(1), Aug. 17, 1984, 98 Stat. 1334.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–381 substituted a period for ", except that the aggregate amount of such advances shall not exceed the sum of \$165,000,000" at end of first sentence.

¹ *So in original.*

§617b. Authorization of appropriations

There is authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such sums of money as may be necessary to carry out the purposes of this subchapter, not exceeding in the aggregate \$242,000,000, of which \$77,000,000 (October 1983 price levels) shall be adjusted plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. Said \$77,000,000 represents the additional amount required for the uprating program and the visitor facilities program.

(Dec. 21, 1928, ch. 42, §3, 45 Stat. 1058; Pub. L. 98–381, title I, §103(a)(2), Aug. 17, 1984, 98 Stat. 1334.)

AMENDMENTS

1984—Pub. L. 98–381 substituted "\$242,000,000, of which \$77,000,000 (October 1983 price levels) shall be adjusted plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. Said \$77,000,000 represents the additional amount required for the uprating program and the visitor facilities program" for "\$165,000,000".

§617c. Condition precedent to taking effect of provisions

(a) Ratification by interested States of Colorado River compact; agreements for apportionment of waters

This subchapter shall not take effect and no authority shall be exercised under this subchapter and no work shall be begun and no moneys expended on or in connection with the works or structures provided for in this subchapter, and no water rights shall be claimed or initiated thereunder, and no steps shall be taken by the United States or by others to initiate or perfect any claims to the use of water pertinent to such works or structures unless and until (1) the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall have ratified the Colorado River compact, mentioned in section 617l of this title, and the President by public proclamation shall have so declared, or (2) if said States fail to ratify the said compact within six months from December 21, 1928, then, until six of said States, including the State of California, shall ratify said compact and shall consent to waive the provisions of the first paragraph of Article XI of said compact, which makes the same binding and obligatory only when approved by each of the seven States signatory thereto, and shall have approved said compact without conditions, save that of such six-State approval, and the President by public proclamation shall have so declared, and, further, until the State of California, by act of its legislature, shall agree irrevocably and unconditionally with the United States and for the benefit of the States of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming, as an express covenant and in consideration of the passage of this subchapter, that the aggregate annual consumptive use (diversions less returns to the river) of water of and from the Colorado River for use in the State of California, including all uses under contracts made under the provisions of this subchapter and all water necessary for the supply of any rights which existed on December 21, 1928, shall not exceed four million four hundred thousand acre-feet of the waters apportioned to the lower basin States by paragraph (a) of Article III of the Colorado River compact, plus not more than one-half of any excess or surplus waters unapportioned by said compact, such uses always to be subject to the terms of said compact.

The States of Arizona, California, and Nevada are authorized to enter into an agreement which shall provide (1) that of the 7,500,000 acre-feet annually apportioned to the lower basin by paragraph (a) of Article III of the Colorado River compact, there shall be apportioned to the State of Nevada 300,000 acre-feet and to the State of Arizona 2,800,000 acre-feet for exclusive beneficial consumptive use in perpetuity, and (2) that the State of Arizona may annually use one-half of the excess or surplus waters unapportioned by the Colorado River compact, and (3) that the State of Arizona shall have the exclusive beneficial consumptive use of the Gila River and its tributaries within the boundaries of said State, and (4) that the waters of the Gila River and its tributaries, except return flow after the same enters the Colorado River, shall never be subject to any diminution whatever by any allowance of water which may be made by treaty or otherwise to the United States of Mexico but if, as provided in paragraph (c) of Article III of the Colorado River compact, it shall become necessary to supply water to the United States of Mexico from waters over and above the quantities which are surplus as defined by said compact, then the State of California shall and will mutually agree with the State of Arizona to supply out of the main stream of the Colorado River, one-half of any deficiency which must be supplied to Mexico by the lower basin, and (5) that the State of California shall and will further mutually agree with the States of Arizona and Nevada that none of said three States shall withhold water and none shall require the delivery of water, which cannot reasonably be applied to domestic and agricultural uses, and (6) that all of the provisions of said tri-State agreement shall be subject in all particulars to the provisions of the Colorado River compact and (7) said agreement to take effect upon the ratification of the Colorado River compact by Arizona, California, and Nevada.

(b) Agreements for revenues to meet expenses of construction, operation, and maintenance of works

Before any money is appropriated for the construction of said dam or power plant, or any construction work done or contracted for, the Secretary of the Interior shall make provision for revenues by contract, in accordance with the provisions of this subchapter, adequate in his judgment to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within fifty years from the date of the completion of said works, of all amounts advanced to the fund under subdivision (b) of section 617a of this title for such works together with interest thereon made reimbursable under this subchapter.

Before any money is appropriated for the construction of said main canal and appurtenant structures to connect the Laguna Dam with the Imperial and Coachella Valleys in California, or any construction work is done upon said canal or contracted for, the Secretary of the Interior shall make provision for revenues, by contract or otherwise, adequate in his judgment to insure payment of all expenses of construction, operation, and maintenance of said main canal and appurtenant structures in the manner provided in the reclamation law.

If during the period of amortization the Secretary of the Interior shall receive revenues in excess of the amount necessary to meet the periodical payments to the United States as provided in the contract, or contracts, executed under this subchapter, then, immediately after the settlement of such periodical payments, he shall pay to the State of Arizona 18¾ per centum of such excess revenues and to the State of Nevada 18¾ per centum of such excess revenues.

(Dec. 21, 1928, ch. 42, §4, 45 Stat. 1058.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 617k of this title.

§617d. Contracts for storage and use of waters for irrigation and domestic purposes; generation and sale of electrical energy

The Secretary of the Interior is authorized, under such general regulations as he may prescribe, to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon, for irrigation and domestic uses, and generation of electrical energy and delivery at the switchboard to States, municipal corporations, political subdivisions, and private corporations of electrical energy generated at said dam, upon charges that will provide revenue which, in addition to other revenue accruing under the reclamation law and under this subchapter, will in his judgment cover all expenses of operation and maintenance incurred by the United States on account of works constructed under this subchapter and the payments to the United States under subdivision (b) of section 617c of this title. Contracts respecting water for irrigation and domestic uses shall be for permanent service and shall conform to paragraph (a) of section 617c of this title. No person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract made as herein stated.

After the repayments to the United States of all money advanced with interest, charges shall be on such basis and the revenues derived therefrom shall be kept in a separate fund to be expended within the Colorado River Basin as may hereafter be prescribed by the Congress.

General and uniform regulations shall be prescribed by the said Secretary for the awarding of contracts for the sale and delivery of electrical energy, and for renewals under subdivision (b) of this section, and in making such contracts the following shall govern:

(a) Duration of contracts for electrical energy; price of water and electrical energy to yield reasonable returns; readjustments of prices

No contract for electrical energy or for generation of electrical energy shall be of longer duration than fifty years from the date at which such energy is ready for delivery.

Contracts made pursuant to subdivision (a) of this section shall be made with a view to obtaining reasonable returns and shall contain provisions whereby at the end of fifteen years from the date of their execution and every ten years thereafter, there shall be readjustment of the contract, upon the demand of either party thereto, either upward or downward as to price, as the Secretary of the Interior may find to be justified by competitive conditions at distributing points or competitive centers, and with provisions under which disputes or disagreements as to interpretation or performance of such contract shall be determined either by arbitration or court proceedings, the Secretary of the Interior being authorized to act for the United States in such readjustments or proceedings.

(b) Renewal of contracts for electrical energy

The holder of any contract for electrical energy not in default thereunder shall be entitled to a renewal thereof upon such terms and conditions as may be authorized or required under the then existing laws and regulations, unless the property of such holder dependent for its usefulness on a continuation of the contract be purchased or acquired and such holder be compensated for damages to its property, used and useful in the transmission and distribution of such electrical energy and not taken, resulting from the termination of the supply.

(c) Applicants for purchase of water and electrical energy; preferences

Contracts for the use of water and necessary privileges for the generation and distribution of hydroelectric energy or for the sale and delivery of electrical energy shall be made with responsible applicants therefor who will pay the price fixed by the said Secretary with a view to meeting the revenue requirements herein provided for. In case of conflicting applications, if any, such conflicts shall be resolved by the said Secretary, after hearing, with due regard to the public interest, and in conformity with the policy expressed in the Federal Power Act [16 U.S.C. 791a et seq.] as to conflicting applications for permits and licenses, except that preference to applicants for the use of water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy, or for delivery at the switchboard of a hydroelectric plant, shall be given, first, to a State for the generation or purchase of electric energy for use in the State, and the States of Arizona, California, and Nevada shall be given equal opportunity as such applicants.

The rights covered by such preference shall be contracted for by such State within six months after notice by the Secretary of the Interior and to be paid for on the same terms and conditions as may be provided in other similar contracts made by said Secretary: *Provided, however*, That no application of a State or a political subdivision for an allocation of water for power purposes or of electrical energy shall be denied or another application in conflict therewith be granted on the ground that the bond issue of such State or political subdivision necessary to enable the applicant to utilize such water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy or the electrical energy applied for, has not been authorized or marketed, until after a reasonable time, to be determined by the said Secretary, has been given to such applicant to have such bond issue authorized and marketed.

(d) Transmission lines for electrical energy; use; rights of way over public and reserved lands

Any agency receiving a contract for electrical energy equivalent to one hundred thousand firm horsepower, or more, may, when deemed feasible by the said Secretary, from engineering and economic considerations and under general regulations prescribed by him, be required to permit any other agency having contracts hereunder for less than the equivalent of twenty-five thousand firm horsepower, upon application to the Secretary of the Interior made within sixty days from the execution of the contract of the agency the use of whose transmission line is applied for, to participate in the benefits and use of any main transmission line constructed or to be constructed by the former for carrying such energy (not exceeding, however, one-fourth the capacity of such line), upon payment by such other agencies of a reasonable share of the cost of construction, operation, and maintenance thereof.

The use is authorized of such public and reserved lands of the United States as may be necessary or convenient for the construction, operation, and maintenance of main transmission lines to transmit said electrical energy.

(Dec. 21, 1928, ch. 42, §5, 45 Stat. 1060.)

REFERENCES IN TEXT

The reclamation law, referred to in text preceding subsec. (a), is defined in section 617k of this title.

The Federal Power Act, referred to subsec. (c), which was in the original the "Federal Water Power Act", is defined in section 617k of this title. For further details, see note set out under section 617k of this title.

§617e. Uses to be made of dam and reservoir; title in whom; leases, regulations; limitation on authority

The dam and reservoir provided for by section 617 of this title shall be used: First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights in pursuance of Article VIII of said Colorado River compact; and third, for power. The title to said dam, reservoir, plant, and incidental works shall forever remain in the United States, and the United States shall, until otherwise provided by Congress, control, manage, and operate the same, except as herein otherwise provided: *Provided, however*, That the Secretary of the Interior may, in his discretion, enter into contracts of lease of a unit or units of any Government-built plant, with right to generate electrical energy, or alternatively, to enter into contracts of lease for the use of water for the generation of electrical energy as herein provided, in either of which events the provisions of section 617d of this title relating to revenue, term, renewals, determination of conflicting applications, and joint use of transmission lines under contracts for the sale of electrical energy, shall apply.

The Secretary of the Interior shall prescribe and enforce rules and regulations conforming with the requirements of the Federal Power Act [16 U.S.C. 791a et seq.], so far as applicable, respecting maintenance of works in condition of repair adequate for their efficient operation, maintenance of a system of accounting, control of rates and service in the absence of State regulation or interstate agreement, valuation for rate-making purposes, transfers of contracts, contracts extending beyond the lease period, expropriation of excessive profits, recapture and/or emergency use by the United States of property of lessees, and penalties for enforcing regulations made under this subchapter or penalizing failure to comply with such regulations or with the provisions of this subchapter. He shall also conform with other provisions of the Federal Power Act and of the rules and regulations of the Federal Power Commission, which have been devised or which may be hereafter devised, for the protection of the investor and consumer.

The Federal Power Commission is directed not to issue or approve any permits or licenses under said Federal Power Act [16 U.S.C. 791a et seq.] upon or affecting the Colorado River or any of its tributaries, except the Gila River, in the States of Colorado, Wyoming, Utah, New Mexico, Nevada, Arizona, and California until this subchapter shall become effective as provided in sections 617c of this title.

(Dec. 21, 1928, ch. 42, §6, 45 Stat. 1061.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, which was in the original the "Federal Water Power Act", is defined in section 617k of this title. For further details, see note set out under section 617k of this title.

TRANSFER OF FUNCTIONS

Federal Power Commission terminated and functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission)

by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out in the Appendix to Title 5, Government Organization and Employees.

§617f. Canals and appurtenant structures; transfer of title; power development

The Secretary of the Interior may, in his discretion, when repayments to the United States of all money advanced, with interest, reimbursable hereunder, shall have been made, transfer the title to said canal and appurtenant structures, except the Laguna Dam and the main canal and appurtenant structures down to and including Syphon Drop, to the districts or other agencies of the United States having a beneficial interest therein in proportion to their respective capital investments under such form of organization as may be acceptable to him. The said districts or other agencies shall have the privilege at any time of utilizing by contract or otherwise such power possibilities as may exist upon said canal, in proportion to their respective contributions or obligations toward the capital cost of said canal and appurtenant structures from and including the diversion works to the point where each respective power plant may be located. The net proceeds from any power development on said canal shall be paid into the fund and credited to said districts or other agencies on their said contracts, in proportion to their rights to develop power, until the districts or other agencies using said canal shall have paid thereby and under any contract or otherwise an amount of money equivalent to the operation and maintenance expense and cost of construction thereof.

(Dec. 21, 1928, ch. 42, §7, 45 Stat. 1062.)

§617g. Colorado River compact as controlling authority in construction and maintenance of dam, reservoir, canals, and other works

(a) The United States, its permittees, licensees, and contractees, and all users and appropriators of water stored, diverted, carried, and/or distributed by the reservoir, canals, and other works herein, authorized shall observe and be subject to and controlled by said Colorado River compact in the construction, management, and operation of said reservoir, canals, and other works and the storage, diversion, delivery, and use of water for the generation of power, irrigation, and other purposes, anything in this subchapter to the contrary notwithstanding, and all permits, licenses, and contracts shall so provide.

(b) Also the United States, in constructing, managing, and operating the dam, reservoir, canals, and other works herein authorized in including the appropriation, delivery, and use of water for the generation of power, irrigation, or other uses, and all users of water thus delivered and all users and appropriators of waters stored by said reservoir and/or carried by said canal, including all permittees and licensees of the United States or any of its agencies, shall observe and be subject to and controlled, anything to the contrary herein notwithstanding, by the terms of such compact, if any, between the States of Arizona, California, and Nevada, or any two thereof, for the equitable division of the benefits, including power, arising from the use of water accruing to said States, subsidiary to and consistent with said Colorado River compact, which may have been negotiated and approved by said States and to which Congress shall have given its consent and approval on or before January 1, 1929; and the terms of any such compact concluded between said States and approved and consented to by Congress after said date: *Provided*, That in the latter case such compact shall be subject to all contracts, if any, made by the Secretary of the Interior under section 617d of this title prior to the date of such approval and consent by Congress.

(Dec. 21, 1928, ch. 42, §8, 45 Stat. 1062.)

§617h. Lands capable of irrigation and reclamation by irrigation works; public entry; preferences

Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h)) shall be opened for entry, in tracts varying in size but not exceeding one hundred and sixty acres, as may be determined by the Secretary of the Interior, in accordance with the provisions of the reclamation law, and any such entryman shall pay an equitable share in accordance with the benefits received, as determined by the said Secretary, of the construction cost of said canal and appurtenant structures; said payments to be made in such installments and at such times as may be specified by the Secretary of the Interior, in accordance with the provisions of the said reclamation law, and shall constitute revenue from said project and be covered into the fund herein provided for: *Provided*, That all persons who served in the United States Army, Navy, Marine Corps, or Coast Guard during World War II, the War with Germany, the War with Spain, or in the suppression of the insurrection in the Philippines, and who have been honorably separated or discharged therefrom or placed in the Regular Army or Naval Reserve, shall have the exclusive preference right for a period of three months to enter said lands, subject, however, to the

provisions of section 433 of this title; and also, so far as practicable, preference shall be given to said persons in all construction work authorized by this subchapter: *Provided further*, That the above exclusive preference rights shall apply to veteran settlers on lands watered from the Gila canal in Arizona the same as to veteran settlers on lands watered from the All-American canal in California: *Provided further*, That in the event such an entry shall be relinquished at any time prior to actual residence upon the land by the entryman for not less than one year, lands so relinquished shall not be subject to entry for a period of sixty days after the filing and notation of the relinquishment in the local land office, and after the expiration of said sixty-day period such lands shall be open to entry, subject to the preference in this section provided.

(Dec. 21, 1928, ch. 42, §9, 45 Stat. 1063; Mar. 6, 1946, ch. 58, 60 Stat. 36; Pub. L. 94–579, title VII, §704, Oct. 21, 1976, 90 Stat. 2792.)

REFERENCES IN TEXT

Act of March 6, 1946 (43 U.S.C. 617(h)), referred to in text, probably means act Mar. 6, 1946, ch. 58, 60 Stat. 36, which amended this section and which authorized all lands of the United States found by the Secretary of the Interior to be practicable of irrigation and reclamation by the irrigation works authorized by the act of Dec. 21, 1928, ch. 42, 45 Stat. 1057, to be withdrawn from public entry.

The reclamation law, referred to in text, is defined in section 617k of this title.

AMENDMENTS

1976—Pub. L. 94–579 substituted "Lands found to be practicable of irrigation and reclamation by irrigation works and withdrawn under the Act of March 6, 1946 (43 U.S.C. 617(h))" for "Thereafter, at the direction of the Secretary of the Interior, such lands", and struck out provisions authorizing withdrawal from public entry of all public lands found by Secretary of the Interior to be practicable of irrigation and reclamation by irrigation works authorized under the act of Dec. 21, 1928, ch. 42, 45 Stat. 1057.

1946—Act Mar. 6, 1946, struck out "or" before "Marine Corps" and inserted "or Coast Guard during World War II" after "Marine Corps," and second proviso.

CHANGE OF NAME

References to Naval Reserve, other than references to Naval Reserve regarding the United States Naval Reserve Retired List, deemed to refer to Navy Reserve, see section 515(h) of Pub. L. 109–163, set out as a note under section 10101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792, provided that amendment to this section striking out provision relating to withdrawal of public lands is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Amendment by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of this title.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions until July 3, 1952. This repeal took effect as of June 16, 1952, by section 7 of Joint Res. July 3, 1952.

§617i. Modification of existing compact relating to Laguna Dam

Nothing in this subchapter shall be construed as modifying in any manner the existing contract, dated October 23, 1918, between the United States and the Imperial Irrigation District, providing for a connection with Laguna Dam; but the Secretary of the Interior is authorized to enter into contract or contracts with the said district or other districts, persons, or agencies for the construction, in accordance with this subchapter of said canal and appurtenant structures, and also for the operation and maintenance thereof, with the consent of the other users.

(Dec. 21, 1928, ch. 42, §10, 45 Stat. 1063.)

§617j. Omitted

CODIFICATION

Section, act Dec. 21, 1928, ch. 42, §11, 45 Stat. 1063, authorized Secretary of the Interior to make surveys and investigations to determine what lands in Arizona should be included in Parker-Gila Valley reclamation project and required him to make a report to Congress not later than Dec. 10, 1931.

§617k. Definitions

"Political subdivision" or "political subdivisions" as used in this subchapter shall be understood to include any State, irrigation or other district, municipality, or other governmental organization.

"Reclamation law" as used in this subchapter shall be understood to mean that certain Act of Congress of the United States approved June 17, 1902, and the Acts amendatory thereof and supplemental thereto.

"Maintenance" as used herein shall be deemed to include in each instance provision for keeping the works in good operating condition.

"The Federal Power Act," [16 U.S.C. 791a et seq.] as used in this subchapter, shall be understood to mean that certain Act of Congress of the United States approved June 10, 1920, and the Acts amendatory thereof and supplemental thereto.

"Domestic", whenever employed in this subchapter, shall include water uses defined as "domestic" in said Colorado River compact.

(Dec. 21, 1928, ch. 42, §12, 45 Stat. 1064.)

REFERENCES IN TEXT

That certain Act of Congress of the United States approved June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

The Federal Power Act, referred to in text, was in the original the "Federal Water Power Act", which was redesignated the Federal Power Act by section 791a of Title 16, Conservation. The Federal Power Act is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

§617l. Colorado River compact approval

(a) Approval by Congress

The Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922, pursuant to Act of Congress approved August 19, 1921, entitled "An Act to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming respecting the disposition and apportionment of the waters of the Colorado River, and for other purposes", is approved by the Congress of the United States, and the provisions of the first paragraph of article 11 of the said Colorado River compact, making said compact binding and obligatory when it shall have been approved by the legislature of each of the signatory States, are waived, and this approval shall become effective when the State of California and at least five of the other States mentioned, shall have approved or may hereafter approve said compact as aforesaid and shall consent to such waiver, as herein provided.

(b) Rights in waters of Colorado River and tributaries; Colorado River compact as controlling

The rights of the United States in or to waters of the Colorado River and its tributaries howsoever claimed or acquired, as well as the rights of those claiming under the United States, shall be subject to and controlled by said Colorado River compact.

(c) Patents, grants, contracts, concessions, etc.; Colorado River compact as controlling

Also all patents, grants, contracts, concessions, leases, permits, licenses, rights-of-way, or other privileges from the United States or under its authority, necessary or convenient for the use of waters of the Colorado River or its tributaries, or for the generation or transmission of electrical energy generated by means of the waters of said river or its tributaries, whether under this subchapter, the Federal Power Act [16 U.S.C. 791a et seq.], or otherwise, shall be upon the express condition and with the express covenant that the rights of the recipients or holders thereof to waters of the river or its tributaries, for the use of which the same are necessary, convenient, or incidental, and the use of the same shall likewise be subject to and controlled by said Colorado River compact.

(d) Conditions and covenants referred to herein; nature; how and by whom availed of in litigation

The conditions and covenants referred to herein shall be deemed to run with the land and the right, interest, or privilege therein and water right, and shall attach as a matter of law, whether set out or referred to in the instrument evidencing any such patent, grant, contract, concession, lease, permit, license, right-of-way, or other privilege from the United States or under its authority, or not, and shall be deemed to be for the benefit of and be available to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, and the users of water therein or

thereunder, by way of suit, defense, or otherwise, in any litigation respecting the waters of the Colorado River or its tributaries.

(Dec. 21, 1928, ch. 42, §13, 45 Stat. 1064.)

REFERENCES IN TEXT

Act of Congress approved August 19, 1921, referred to in subsec. (a), is act Aug. 19, 1921, ch. 72, 42 Stat. 171, which is not classified to the Code.

The Federal Power Act, referred to in subsec. (c), which was in the original the "Federal Water Power Act", is defined in section 617k of this title. For further details, see note set out under section 617k of this title.

UPPER COLORADO RIVER BASIN COMPACT

The Upper Colorado River Basin Compact signed by the States of Arizona, Colorado, New Mexico, Utah, and Wyoming on October 11, 1948, was approved by Congress Apr. 6, 1949, ch. 48, 63 Stat. 31.

§617m. Reclamation law applicable

This subchapter shall be deemed a supplement to the reclamation law, which said reclamation law shall govern the construction, operation, and management of the works herein authorized, except as otherwise therein provided.

(Dec. 21, 1928, ch. 42, §14, 45 Stat. 1065.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 617k of this title.

§617n. Projects for irrigation, generation of electric power, and other purposes; investigations and reports

The Secretary of the Interior is authorized and directed to make investigation and public reports of the feasibility of projects for irrigation, generation of electric power, and other purposes in the States of Arizona, Nevada, Colorado, New Mexico, Utah, and Wyoming for the purpose of making such information available to said States and to the Congress and of formulating a comprehensive scheme of control and the improvement and utilization of the water of the Colorado River and its tributaries. The sum of \$250,000 is authorized to be appropriated from said Colorado River Dam fund, created by section 617a of this title, for such purposes.

(Dec. 21, 1928, ch. 42, §15, 45 Stat. 1065.)

§617o. Officials of ratifying States; authority to act in advisory capacity; access to records

In furtherance of any comprehensive plan formulated on and after Dec. 21, 1928 for the control, improvement, and utilization of the resources of the Colorado River system and to the end that the project authorized by this subchapter may constitute and be administered as a unit in such control, improvement, and utilization, any commission or commissioner duly authorized under the laws of any ratifying State in that behalf shall have the right to act in an advisory capacity to and in cooperation with the Secretary of the Interior in the exercise of any authority under the provisions of sections 617c, 617d, and 617m of this title and shall have at all times access to records of all Federal agencies empowered to act under said sections, and shall be entitled to have copies of said records on request.

(Dec. 21, 1928, ch. 42, §16, 45 Stat. 1065.)

§617p. Claims of United States; priority

Except as provided in title 11, claims of the United States arising out of any contract authorized by this subchapter shall have priority over all others, secured or unsecured.

(Dec. 21, 1928, ch. 42, §17, 45 Stat. 1065; Pub. L. 95-598, title III, §332, Nov. 6, 1978, 92 Stat. 2679.)

AMENDMENTS

1978—Pub. L. 95-598 inserted introductory phrase "Except as provided in title 11".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Dates note preceding section 101 of Title 11, Bankruptcy.

§617q. Effect on authority of States to control waters within own borders

Nothing herein shall be construed as interfering with such rights as the States had on December 21, 1928, either to the waters within their borders or to adopt such policies and enact such laws as they deem necessary with respect to the appropriation, control, and use of waters within their borders, except as modified by the Colorado River compact or other interstate agreement.

(Dec. 21, 1928, ch. 42, §18, 45 Stat. 1065.)

§617r. Consent given States to negotiate supplemental compacts for development of Colorado River

The consent of Congress is given to the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming to negotiate and enter into compacts or agreements, supplemental to and in conformity with the Colorado River compact and consistent with this subchapter for a comprehensive plan for the development of the Colorado River and providing for the storage, diversion, and use of the waters of said river. Any such compact or agreement may provide for the construction of dams, headworks, and other diversion works or structures for flood control, reclamation, improvement of navigation, division of water, or other purposes and/or the construction of power houses or other structures for the purpose of the development of water power and the financing of the same; and for such purposes may authorize the creation of interstate commissions and/or the creation of corporations, authorities, or other instrumentalities.

(a) Such consent is given upon condition that a representative of the United States, to be appointed by the President, shall participate in the negotiations and shall make report to Congress of the proceedings and of any compact or agreement entered into.

(b) No such compact or agreement shall be binding or obligatory upon any of such States unless and until it has been approved by the legislature of each of such States and by the Congress of the United States.

(Dec. 21, 1928, ch. 42, §19, 45 Stat. 1065.)

§617s. Recognition of rights of Mexico to Colorado River waters

Nothing in this subchapter shall be construed as a denial or recognition of any rights, if any, in Mexico to the use of the waters of the Colorado River system.

(Dec. 21, 1928, ch. 42, §20, 45 Stat. 1066.)

§617t. Short title

The short title of this subchapter shall be "Boulder Canyon Project Act."

(Dec. 21, 1928, ch. 42, §21, 45 Stat. 1066.)

§617u. Lease of reserved lands in Boulder City, Nevada; disposition of revenues

The Secretary of the Interior is authorized and empowered, under such rules and regulations as he may prescribe, to establish rental rates for the lease of reserved lands of the United States situate within the exterior boundaries of Boulder City, Nevada, and, without prior advertising, to enter into leases therefor at not less than rates so established and for periods not exceeding fifty-three years from the date of such leases: *Provided*, That all revenues which may accrue to the United States under the provisions of such leases shall be deposited in the Treasury and credited to the Colorado River Dam fund established by section 617a of this title.

(June 18, 1940, ch. 395, 54 Stat. 437.)

CODIFICATION

Section was not enacted as part of the Boulder Canyon Project Act which comprises this subchapter.

BOULDER CITY ACT OF 1958

Public Law 85–900, Sept. 2, 1958, 72 Stat. 1726, provided for disposal of certain Federal property in Boulder City for purposes of establishment of a municipal corporation incorporated under laws of Nevada.

§617v. Repealed. Pub. L. 85–900, §17, Sept. 2, 1958, 72 Stat. 1735

Section, act July 31, 1953, ch. 296, title II, 67 Stat. 250, which was not enacted as part of the Boulder Canyon Project Act (which comprises this subchapter), provided for taxation of leaseholds lying within Boulder Canyon Project Reservation and deduction of certain school taxes in Boulder City Union School District.

SUBCHAPTER II—BOULDER CANYON PROJECT ADJUSTMENT ACT**EFFECTIVE DATE**

Effective date of subchapter, see sections 618i, 620f, 620h, 620m of this title.

CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS SUBCHAPTER

Consolidation of Parker and Davis Dam projects as not affecting this subchapter, see note set out preceding subchapter I of this chapter.

§618. Promulgation of charges for electrical energy

The Secretary of the Interior is authorized and directed to, and he shall, promulgate charges, or the basis of computation thereof, for electrical energy generated at Hoover Dam beginning June 1, 1937, computed to be sufficient, together with other net revenues from the project, to accomplish the following purposes:

(a) To meet the cost of operation and maintenance, and to provide for replacements, of the project beginning June 1, 1937;

(b) To repay to the Treasury, with interest, the advances to the Colorado River Dam Fund for the project made prior to June 1, 1937, within fifty years from that date (excluding advances allocated to flood control by section 617a(b) of this title, which shall be repayable as provided in section 618f of this title), and such advances made on and after June 1, 1937, over fifty-year periods;

(c) To provide \$600,000 for each of the years and for the purposes specified in section 618a(c) of this title;

(d) To provide \$500,000 for each of the years and for the purposes specified in section 618a(d) of this title; and

(e) To provide, by application of the increments to rates specified in section 403(c)(2) of the Colorado River Basin Project Act of 1968, as amended and supplemented [43 U.S.C. 1543(c)(2)], revenues, from and after June 1, 1987, for application to the purposes there specified.

Such charges may be made subject to revisions and adjustments at such times, to such extent, and in such manner, as by the terms of their promulgation the Secretary shall prescribe.

(July 19, 1940, ch. 643, §1, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56; Pub. L. 98–381, title I, §104(a)(1)–(3), Aug. 17, 1984, 98 Stat. 1334.)

AMENDMENTS

1984—Pub. L. 98–381, §104(a)(1), substituted "beginning June 1, 1937" for "during the period beginning June 1, 1937, and ending May 31, 1987" in provisions preceding subsec. (a).

Subsec. (a). Pub. L. 98–381, §104(a)(1), substituted "beginning June 1, 1937" for "during the period beginning June 1, 1937, and ending May 31, 1987".

Subsec. (b). Pub. L. 98–381, §104(a)(2), substituted "and such advances made on or after June 1, 1937, over fifty-year periods" for "and such portion of such advances made on or after June 1, 1937, as (on the basis of repayment thereof within such fifty-year period or periods as the Secretary may determine) will be repayable prior to June 1, 1987".

Subsec. (e). Pub. L. 98–381, §104(a)(3), added subsec. (e).

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

CONSTRUCTION WITH OTHER LAWS

Pub. L. 98–381, title I, §104(b), Aug. 17, 1984, 98 Stat. 1335, provided that: "Except as amended by this Act [amending sections 618, 618a, 618e, and 618k of this title], the Boulder Canyon Project Adjustment Act of 1940 (54 Stat. 774, as amended, 43 U.S.C. 618), as amended and supplemented [this subchapter], shall remain in full force and effect."

§618a. Receipts from project; disposition

All receipts from the project shall be paid into the Colorado River Dam Fund and shall be available, without further appropriation, for:

(a) Defraying operating expenses

Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance and replacements of, and emergency expenditures for, all facilities of the project, within such separate limitations as may be included in annual appropriations Acts;

(b) Repayment of cost of construction

Repayment to the Treasury, with interest (after making provision for the payments and transfers provided in subdivisions (c) and (d) hereof), of advances to the Colorado River Dam Fund for the construction of the project (excluding the amount allocated to flood control by section 2(b) of the Project Act [43 U.S.C. 617a(b)]), and any readvances made to said fund under section 618d of this title; and

(c) Commutation payments to Arizona and Nevada

Payment subject to the provisions of section 618b of this title, in commutation of the payments now provided for the States of Arizona and Nevada in section 4(b) of the Project Act [43 U.S.C. 617c(b)] to each of said States of the sum of \$300,000 for each year of operation, beginning with the year of operation ending May 31, 1938, and continuing annually thereafter until and including the year of operation ending May 31, 1987, and such payments for any year of operation which shall have expired at the time when this subdivision shall become effective shall be due immediately, and be paid, without interest, as expeditiously as administration of this subchapter will permit, and each such payment for subsequent years of operation shall be made on or before July 31, following the close of the year of operation for which it is made. All such payments shall be made from revenues received on and after July 19, 1940 in the Colorado River Dam Fund.

Notwithstanding the foregoing provisions of this subsection, in the event that there are levied and collected by or under authority of Arizona or Nevada or by any lawful taxing political subdivision thereof, taxes upon—

- (i) the project as herein defined;
- (ii) the electrical energy generated at Hoover Dam by means of facilities, machinery, or equipment both owned and operated by the United States, or owned by the United States and operated under contract with the United States;
- (iii) the privilege of generating or transforming such electrical energy or of use of such facilities, machinery, or equipment or of falling water for such generation or transforming; or
- (iv) the transmission or control of such electrical energy so generated or transformed (as distinguished from the transmission lines and other physical properties used for such transmission or control) or the use of such transmission lines or other physical properties for such transmission or control,

payments made hereunder to the State by or under the authority of which such taxes are collected shall be reduced by an amount equivalent to such taxes. Nothing herein shall in anywise impair the right of either the State of Arizona or the State of Nevada, or any lawful taxing political subdivision of either of them, to collect non-discriminatory taxes upon that portion of the transmission lines and all other physical properties, situated within such State and such political subdivision, respectively, and belonging to any of the lessees and/or allottees under the Project Act [43 U.S.C. 617 et seq.] and/or under this subchapter, and nothing herein shall exempt or be construed so as to exempt any such property from nondiscriminatory taxation, all in the manner provided by the constitution and laws of such State. Sums, if any, received by each State under the provisions of the Project Act [43 U.S.C. 617 et seq.] shall be deducted from the first payment or payments to said State authorized by this subchapter. Payments under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(d) Transfer of sums to Colorado River Development Fund; expenditure of fund

Transfer, subject to the provisions of section 618b of this title, from the Colorado River Dam Fund to a special fund in the Treasury, established and designated the "Colorado River Development Fund", of the sum of \$500,000 for the year of operation ending May 31, 1938, and the like sum of \$500,000 for each year of operation thereafter, until and including the year of operation ending May 31, 1987. The transfer of the said sum of \$500,000 for each year of operation shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided*, That any such transfer for any year of operation which shall have ended at the time this subsection shall become effective, shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this subchapter will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 618b of this title, then the first receipts of said fund up to \$1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for

the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however*, That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1987, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States of the lower division. The terms "Colorado River system", "States of the upper division", and "States of the lower division" as so used shall have the respective meanings defined in the Colorado River compact mentioned in the Project Act [43 U.S.C. 617 et seq.]. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in this subchapter shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall this subchapter be construed as affecting the right of any State to proceed independently of this subchapter or its provisions with the investigation or construction of any project or projects. Transfers under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(e) Transfer to Lower Colorado River Basin Development Fund

Transfer to the Lower Colorado River Basin Development Fund established by title IV of the Colorado River Basin Project Act of 1968, as amended and supplemented [43 U.S.C. 1541 et seq.], of the revenues referred to in section 618(e) of this title.

(July 19, 1940, ch. 643, §2, 54 Stat. 774; Apr. 30, 1947, ch. 46, 61 Stat. 56; May 14, 1948, ch. 292, 62 Stat. 235; June 1, 1948, ch. 364, §1, 62 Stat. 284; Pub. L. 98–381, title I, §104(a)(4), Aug. 17, 1984, 98 Stat. 1334.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

The Colorado River Basin Project Act, referred to in subd. (e), is Pub. L. 90–537, **Sept. 30, 1968**, 82 Stat. 885, as amended, which is classified principally to chapter 32 (§1501 et seq.) of this title. Title IV of the Act is classified to subchapter IV (§1541 et seq.) of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

AMENDMENTS

1984—Pub. L. 98–381, §104(a)(4)(i), amended introductory provisions generally, inserting ", without further appropriation," after "available".

Subd. (a). Pub. L. 98–381, §104(a)(4)(i), substituted "Defraying the costs of operation (including purchase of supplemental energy to meet temporary deficiencies in firm energy which the Secretary of Energy is obligated by contract to supply), maintenance and replacements of, and emergency expenditures for, all facilities of the project, within such separate limitations as may be included in annual appropriations Acts;" for "Annual appropriation for the operation, maintenance, and replacements of the project, including emergency replacements necessary to insure continuous operations;"

Subd. (e). Pub. L. 98–381, §104(a)(4)(ii), substituted provisions relating to the transfer of funds to the Lower Colorado River Basin Development Fund for provisions which had made available receipts from the project paid into the Colorado River Dam Fund, for annual appropriation for fiscal years 1948 to 1951 for payment to Boulder City School District as reimbursement for pupil instructions not exceeding \$65 per semester per pupil.

1948—Subd. (d). Act June 1, 1948, inserted proviso to fourth sentence to provide for distribution of receipts for fiscal years 1949 to 1955, inclusive.

Subd. (e). Act May 14, 1948, added subd. (e).

CHANGE OF NAME

Act Apr. 30, 1947, changed name of Boulder Dam back to Hoover Dam.

§618a–1. Availability of Colorado River Development Fund for investigation and construction purposes

The availability of appropriations from the Colorado River Development Fund for the investigation and construction of projects in any of the States of the Colorado River Basin shall not be held to forbid the expenditure of other funds for those purposes in any of those States where such funds are otherwise available therefor.

(June 1, 1948, ch. 364, §2, 62 Stat. 285.)

CODIFICATION

Section was not enacted as part of the Boulder Canyon Project Adjustment Act which comprises this subchapter.

§618b. Reduction of payments and transfers where revenue is insufficient

If, by reason of any act of God, or of the public enemy, or any major catastrophe, or any other unforeseen and unavoidable cause, the revenues, for any year of operation, after making provision for costs of operation, maintenance, and the amount to be set aside for said year for replacements, should be insufficient to make the payments to the States of Arizona and Nevada and the transfers to the Colorado River Development Fund in this subchapter provided for, such payments and transfers shall be proportionately reduced, as the Secretary may find to be necessary by reason thereof.

(July 19, 1940, ch. 643, §3, 54 Stat. 776.)

§618c. Charges as retroactive; adjustment of accounts

(a) Upon the taking effect of this subchapter, pursuant to section 618i of this title, the charges, or the basis of computation thereof, promulgated under this subchapter, shall be applicable as from June 1, 1937, and adjustments of accounts by reason thereof, including charges by and against the United States, shall be made so that the United States and all parties that have contracted for energy, or for the privilege of generating energy, at the project, shall be placed in the same position, as nearly as may be, as determined by the Secretary, that they would have occupied had such charges, or the basis of computation thereof, and the method of operation which may be provided for under section 618h of this title, been effective on June 1, 1937: *Provided*, That such adjustments with contractors shall not be made in cash, but shall be made by means of credits extended over such period as the Secretary may determine.

(b) In the event payments to the States of Arizona and Nevada, or either of them, under section 618a(c) of this title, shall be reduced by reason of the collection of taxes mentioned in said section, adjustments shall be made, from time to time, with each allottee which shall have paid any such taxes, by credits or otherwise, for that proportion of the amount of such reductions which the amount of the payments of such taxes by such allottee bears to the total amount of such taxes collected.

(July 19, 1940, ch. 643, §4, 54 Stat. 776.)

§618d. Readvances from Treasury where Dam Fund is insufficient to meet cost of replacements

If at any time there shall be insufficient sums in the Colorado River Dam Fund to meet the cost of replacements, however necessitated, in addition to meeting the other requirements of this subchapter, or of regulations authorized hereby and promulgated by the Secretary, the Secretary of the Treasury, upon request of the Secretary of the Interior, shall readvance to the said fund, in amounts not exceeding, in the aggregate, moneys repaid to the Treasury pursuant to section 618a(b) of this title, the amount required for replacements, however necessitated, in excess of the amount currently available therefor in said Colorado River Dam Fund. There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums, not exceeding said aggregate amount, as may be necessary to permit the Secretary of the Treasury to make such readvances. All such readvances shall bear interest.

(July 19, 1940, ch. 643, §5, 54 Stat. 777.)

READVANCES TO COLORADO RIVER DAM FUND; INTEREST RATE ON READVANCES

Pub. L. 103–316, [title II, Aug. 26, 1994](#), 108 Stat. 1713, which provided in part that amounts required for replacement work on the Boulder Canyon Project that would require readvances to the Colorado River Dam Fund from the total appropriated for operation and maintenance of reclamation projects were to be so readvanced pursuant to this section, and that readvances after Oct. 1, 1984, were to bear a prescribed interest rate, was from the Energy and Water Development Appropriations Act, 1995, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–126, [title II, Oct. 28, 1993](#), 107 Stat. 1323.

Pub. L. 102–377, [title II, Oct. 2, 1992](#), 106 Stat. 1328.

Pub. L. 102–104, [title II, Aug. 17, 1991](#), 105 Stat. 523.

Pub. L. 101–514, [title II, Nov. 5, 1990](#), 104 Stat. 2084.

Pub. L. 101–101, [title II, Sept. 29, 1989](#), 103 Stat. 653.

Pub. L. 100–371, [title II, July 19, 1988](#), 102 Stat. 863.

Pub. L. 100–202, [§101\(d\) \[title II\], Dec. 22, 1987](#), 101 Stat. 1329–104, 1329–115.

Pub. L. 99–500, §101(e) [title II], Oct. 18, 1986, 100 Stat. 1783–194, 1783-201, and Pub. L. 99–591, §101(e) [title II], Oct. 30, 1986, 100 Stat. 3341–194, 3341-201.

Pub. L. 99–141, title II, Nov. 1, 1985, 99 Stat. 568.

§618e. Interest payments; rate

Whenever by the terms of the Project Act [43 U.S.C. 617 et seq.] or this subchapter payment of interest is provided for, and whenever interest shall enter into any computation thereunder, such interest shall be computed at the rate of 3 per centum per annum, compounded annually: *Provided*, That the respective rates of interest on appropriated funds advanced for the visitor facilities program, as described in section 619(a) of this title, shall be determined by the Secretary of the Treasury, taking into consideration average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the program during the month preceding the fiscal year in which the costs of the program are incurred. To the extent that more than one interest rate is determined pursuant to the preceding sentence, the Secretary of the Treasury shall establish for repayment purposes an interest rate at a weighted average of the rates so determined.

(July 19, 1940, ch. 643, §6, 54 Stat. 777; Pub. L. 98–381, title I, §104(a)(5), Aug. 17, 1984, 98 Stat. 1335.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

AMENDMENTS

1984—Pub. L. 98–381 inserted proviso relating to rates of interest on appropriated funds advanced for visitors' facilities program.

§618f. Repayment of advances for flood control

The first \$25,000,000 of advances made to the Colorado River Dam Fund for the project shall be deemed to be the sum allocated to flood control by section 617a(b) of this title and repayment thereof shall be deferred without interest until June 1, 1987, after which time such advances so allocated to flood control shall be repayable to the Treasury as the Congress shall determine.

(July 19, 1940, ch. 643, §7, 54 Stat. 777.)

§618g. Regulations; contracts; modification of allotments of energy

The Secretary is authorized from time to time to promulgate such regulations and enter into such contracts as he may find necessary or appropriate for carrying out the purposes of this subchapter and the Project Act [43 U.S.C. 617 et seq.], as modified hereby, and, by mutual consent, to terminate or modify any such contract: *Provided, however*, That no allotment of energy to any allottee made by any rule or regulation heretofore promulgated shall be modified or changed without the consent of such allottee.

(July 19, 1940, ch. 643, §8, 54 Stat. 777.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

§618h. Termination of existing lease of Hoover Power Plant; lessees as agents of United States; termination of agency

The Secretary is authorized to negotiate for and enter into a contract for the termination of the existing lease of the Hoover Power Plant made pursuant to the Project Act [43 U.S.C. 617 et seq.], and in the event of such termination the operation and maintenance, and the making of replacements, however necessitated, of the Hoover Power Plant by the United States, directly or through such agent or agents as the Secretary may designate, is authorized. The powers, duties, and rights of such agent or agents shall be provided by contract, which may include provision that questions relating to the interpretation or performance thereof may be determined, to the extent provided therein, by arbitration or court proceedings. The Secretary in consideration of such termination of such existing lease is authorized to agree (a) that the lessees therein named shall be designated as the agents of the United States for the operation of said power plant; (b) that (except by mutual consent or in accordance with such provisions for termination for default as may be specified therein) such agency contract shall not be revocable or terminable; and (c) that suits or proceedings to restrain the termination of any such agency contract, otherwise than as therein provided, or for other appropriate

equitable relief or remedies, may be maintained against the Secretary. Suits or other court proceedings pursuant to the foregoing provisions may be maintained in, and jurisdiction to hear and determine such suits or proceedings and to grant such relief or remedies is conferred upon, the United States District Court for the District of Columbia, with the like right of appeal or review as in other like suits or proceedings in said court. The Secretary is authorized to act for the United States in such arbitration proceedings.

(July 19, 1940, ch. 643, §9, 54 Stat. 777; Apr. 30, 1947, ch. 46, 61 Stat. 56; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

CHANGE OF NAME

"United States District Court for the District of Columbia" substituted in text for "the district court of the United States for the District of Columbia" on authority of act June 25, 1948, as amended by act May 24, 1949.

"Hoover Power Plant" substituted for "Boulder Power Plant" on authority of act Apr. 30, 1947, which changed name of Boulder Dam to Hoover Dam.

§618i. Effective date

This subchapter shall be effective immediately for the purpose of the promulgation of charges, or the basis of computation thereof, and the execution of contracts authorized by the terms of this subchapter, but neither such charges, nor the basis of computation thereof, nor any such contract, shall be effective unless and until this subchapter shall be effective for all purposes. This subchapter shall take effect for all purposes when, but not before, the Secretary shall have found that provision has been made for the termination of the existing lease of the Hoover Power Plant and for the operation thereof as authorized by section 618h of this title, and that allottees obligated under contracts in force on July 19, 1940 to pay for at least 90 per centum of the firm energy shall have entered into contracts (1) consenting to such operation, and (2) containing such other provisions as the Secretary may deem necessary or proper for carrying out the purposes of this subchapter. For purposes of this section such 90 per centum shall be computed as of the end of the absorption periods provided for in regulations heretofore promulgated by the Secretary and in effect on July 19, 1940.

If contracts in accordance with the requirements of this section shall not have been entered into prior to June 1, 1941, this subchapter shall cease to be operative and shall be of no further force or effect.

(July 19, 1940, ch. 643, §10, 54 Stat. 778; Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

"Hoover Power Plant" substituted in text for "Boulder Power Plant" on authority of act Apr. 30, 1947, which changed name of Boulder Dam to Hoover Dam.

§618j. Effect of refusal to modify existing contracts

Any contractor for energy from the project failing or refusing to execute a contract modifying its existing contract to conform to this subchapter shall continue to pay the rates and charges provided for in its existing contract, subject to such periodic readjustments as are therein provided, in all respects as if this subchapter had not been passed, and so far as necessary to support such existing contract all of the provisions of the Project Act [43 U.S.C. 617 et seq.] shall remain in effect, anything in this subchapter inconsistent therewith notwithstanding.

(July 19, 1940, ch. 643, §11, 54 Stat. 778.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

§618k. Definitions

The following terms wherever used in this subchapter shall have the following respective meanings:

"Project Act" shall mean the Boulder Canyon Project Act [43 U.S.C. 617 et seq.];

"Project" shall mean the works authorized by the Project Act to be constructed and owned by the United States, exclusive of the main canal and appurtenances mentioned therein, now known as the All-American Canal;

"Secretary" shall mean the Secretary of the Interior of the United States;

"Firm energy" and "allottees" shall have the meaning assigned to such terms in regulations promulgated before July 19, 1940, by the Secretary and in effect on July 19, 1940;

"Replacements" shall mean such replacements as may be necessary to keep the project in good operating condition beginning June 1, 1937, but shall not include (except where used in conjunction with the word "emergency" or the words "however necessitated") replacements made necessary by any act of God, or of the public enemy, or by any major catastrophe; and

"Year of operation" shall mean the period from and including June 1 of any calendar year to and including May 31 of the following calendar year.

(July 19, 1940, ch. 643, §12, 54 Stat. 778; Pub. L. 98–381, title I, §104(a)(6), Aug. 18, 1984, 98 Stat. 1335.)

REFERENCES IN TEXT

The Boulder Canyon Project Act, referred to in text, is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§617 et seq.) of this chapter. For complete classification of this Act to the Code, see section 617t of this title and Tables.

AMENDMENTS

1984—Pub. L. 98–381 substituted "beginning June 1, 1937" for "during the period from June 1, 1937, to May 31, 1987, inclusive" in definition of "Replacements".

§618l. Repealed. Aug. 30, 1954, ch. 1076, §1(22), 68 Stat. 968

Section, act July 19, 1940, ch. 643, §13, 54 Stat. 779, required Secretary of the Interior to submit an annual financial statement and report to Congress of operations under this subchapter.

§618m. Effect on existing laws and States' rights

Nothing in this subchapter shall be construed as interfering with such rights as the States had on July 19, 1940, either to the waters within their borders or to adopt such policies and enact such laws as they deem necessary with respect to the appropriation, control, and use of waters within their borders, except as modified by the Colorado River compact or other interstate agreement. Neither the promulgation of charges, or the basis of charges, nor anything contained in this subchapter, or done thereunder, shall in anywise affect, limit, or prejudice any right of any State in or to the waters of the Colorado River system under the Colorado River compact. Sections 13(b), 13(c), and 13(d) of the Project Act [43 U.S.C. 617l(b), (c), and (d)] and all other provisions of said Project Act [43 U.S.C. 617 et seq.] not inconsistent with the terms of this subchapter shall remain in full force and effect.

(July 19, 1940, ch. 643, §14, 54 Stat. 779.)

REFERENCES IN TEXT

The Project Act, referred to in text, is defined in section 618k of this title.

§618n. Wages of employees

All laborers and mechanics employed in the construction of any part of the project, or in the operation, maintenance, or replacement of any part of the Hoover Dam, shall be paid not less than the prevailing rate of wages or compensation for work of a similar nature prevailing in the locality of the project. In the event any dispute arises as to what are the prevailing rates, the determination thereof shall be made by the Secretary of the Interior, and his decision, subject to the concurrence of the Secretary of Labor, shall be final.

(July 19, 1940, ch. 643, §15, 54 Stat. 779; Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

"Hoover Dam" substituted in text for "Boulder Dam" on authority of act Apr. 30, 1947, which changed name of Boulder Dam to Hoover Dam.

§618o. Short title

This subchapter may be cited as "Boulder Canyon Project Adjustment Act".

(July 19, 1940, ch. 643, §16, 54 Stat. 779.)

§618p. Omitted**CODIFICATION**

Section, act Oct. 12, 1949, ch. 680, title I, §101, in part, 63 Stat. 784, related to reports to Congressional appropriations committees on Colorado River dam funds, was from the Interior Department Appropriation Act, 1950, and was not repeated in subsequent appropriation acts. Similar provisions were contained in act June 29, 1948, ch. 754, §1, 62 Stat. 1130.

SUBCHAPTER III—HOOVER DAM CONTRACTS AND FACILITIES**§619. Increase in capacity of existing generating equipment at Hoover Powerplant; construction of Colorado River bridge crossing****(a) Hoover Powerplant generating equipment; increase in capacity; improvement of appurtenances; authorization of Secretary**

The Secretary of the Interior is authorized to increase the capacity of existing generating equipment and appurtenances at Hoover Powerplant (hereinafter in this subchapter referred to as "uprating program"); and to improve parking, visitor facilities, and roadways and to provide additional elevators, and other facilities that will contribute to the safety and sufficiency of visitor access to Hoover Dam and Powerplant (hereinafter in this subchapter referred to as "visitor facilities program").

(b) Construction of Colorado River bridge crossing; authorization of Secretary

The Secretary of the Interior is authorized to construct a Colorado River bridge crossing, including suitable approach spans, immediately downstream from Hoover Dam for the purpose of alleviating traffic congestion and reducing safety hazards. This bridge shall not be a part of the Boulder Canyon project and shall neither be funded nor repaid from the Colorado River Dam Fund or the Lower Colorado River Basin Development Fund.

(Pub. L. 98–381, title I, §101, Aug. 17, 1984, 98 Stat. 1333.)

REFERENCES IN TEXT

This subchapter, was in the original "this Act", meaning Pub. L. 98–381, Aug. 17, 1984, 98 Stat. 1333, which enacted this subchapter and sections 7274 and 7275 of Title 42, The Public Health and Welfare, and amended sections 617a, 617b, 618, 618a, 618e, 618k, and 1543 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 112–72, §1, Dec. 20, 2011, 125 Stat. 777, provided that: "This Act [amending section 619a of this title] may be cited as the 'Hoover Power Allocation Act of 2011'."

SHORT TITLE

Pub. L. 98–381, §1, Aug. 17, 1984, 98 Stat. 1333, provided that: "This Act [enacting this subchapter, provisions set out as notes under sections 617 and 618 of this title and section 839b of Title 16, Conservation, sections 7274 and 7275 and provisions set out as a note under section 7133 of Title 42, The Public Health and Welfare, and amending sections 617a, 617b, 618, 618a, 618e, 618k, and 1543 of this title] may be cited as the 'Hoover Power Plant Act of 1984'."

HOOVER DAM MISCELLANEOUS SALES

Pub. L. 106–461, Nov. 7, 2000, 114 Stat. 1989, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Hoover Dam Miscellaneous Sales Act'.

"SEC. 2. FINDINGS.

"Congress finds that—

"(1) the sale and distribution of general public information about the use of public land and water areas for recreation, fish, wildlife, and other purposes serve significant public benefits;

"(2) publications and other materials educate the public and provide general information about Bureau of Reclamation programs and projects;

"(3) in 1997, more than 1,000,000 visitors, including 300,000 from foreign countries, toured the Hoover Dam;

"(4) hundreds of thousands of additional visitors stopped to view the dam;

"(5) visitors often ask to purchase maps, publications, and other items to enhance their experience or serve educational purposes;

"(6) in many cases the Bureau of Reclamation is the sole source of those items;

"(7) the Bureau is in a unique position to fulfill public requests for those items; and

"(8) as a public agency, the Bureau should be responsive to the public by having appropriate items available for sale.

"SEC. 3. PURPOSES.

"The purposes of this Act are—

"(1) to authorize the Secretary of the Interior to offer for sale to members of the public that visit the Hoover Dam Visitor Center educational materials and memorabilia; and

"(2) to use revenue from those sales to repay the costs relating to construction of the Hoover Dam Visitor Center.

"SEC. 4. AUTHORITY TO CONDUCT SALES.

"With respect to the Hoover Dam, the Secretary of the Interior, acting through the Commissioner of Reclamation, may—

"(1) conduct sales of—

"(A) materials generated by the Bureau of Reclamation such as posters, maps, brochures, photographs, and similar publications, videotapes, and computer information discs that are related to programs or projects of the Bureau; and

"(B) memorabilia and other commemorative items that depict programs or projects of the Bureau;

"(2) convert unneeded property or scrap material into Bureau memorabilia for sale purposes; and

"(3) enter into agreements with nonprofit organizations, other Federal agencies, State and local governments, and commercial entities for—

"(A) the production or sale of items described in paragraphs (1) and (2); and

"(B) the sale of publications described in paragraph (1).

"SEC. 5. COSTS AND REVENUES.

"(a) COSTS.—All costs incurred by the Bureau of Reclamation under this Act shall be paid from the Colorado River Dam fund established by section 2 of the Act of December 21, 1928 (43 U.S.C. 617a).

"(b) REVENUES.—

"(1) USE FOR REPAYMENT OF SALES COSTS.—All revenues collected by the Bureau of Reclamation under this Act shall be credited to the Colorado River Dam fund to remain available, without further Act of appropriation, to pay costs associated with the production and sale of items in accordance with section 4.

"(2) USE FOR REPAYMENT OF CONSTRUCTION COSTS.—All revenues collected by the Bureau of Reclamation under this Act that are not needed to pay costs described in paragraph (1) shall be transferred annually to the general fund of the Treasury in repayment of costs relating to construction of the Hoover Dam Visitor Center."

§619a. Renewal contracts for power

(a) Offering of contracts by Secretary; total power obligation; conforming of regulations; contract expiration and restrictions

(1) The Secretary of Energy shall offer:

(A) To each contractor for power generated at Hoover Dam a contract for delivery commencing October 1, 2017, of the amount of capacity and firm energy specified for that contractor in the following table:

SCHEDULE A				
LONG-TERM SCHEDULE A CONTINGENT CAPACITY AND ASSOCIATED FIRM ENERGY FOR OFFERS OF CONTRACTS TO BOULDER CANYON PROJECT CONTRACTORS				
Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
Metropolitan Water District of Southern California	249,948	859,163	368,212	1,227,375

City of Los Angeles	495,732	464,108	199,175	663,283
Southern California Edison Company	280,245	166,712	71,448	238,160
City of Glendale	18,178	45,028	19,297	64,325
City of Pasadena	11,108	38,622	16,553	55,175
City of Burbank	5,176	14,070	6,030	20,100
Arizona Power Authority	190,869	429,582	184,107	613,689
Colorado River Commission of Nevada	190,869	429,582	184,107	613,689
United States, for Boulder City	20,198	53,200	22,800	76,000
Totals	1,462,323	2,500,067	1,071,729	3,571,796

(B) To each existing contractor for power generated at Hoover Dam, a contract, for delivery commencing October 1, 2017, of the amount of contingent capacity and firm energy specified for that contractor in the following table:

**SCHEDULE B
LONG-TERM SCHEDULE B CONTINGENT CAPACITY AND ASSOCIATED FIRM ENERGY FOR OFFERS OF CONTRACTS TO
BOULDER CANYON PROJECT CONTRACTORS**

Contractor	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
City of Glendale	2,020	2,749	1,194	3,943
City of Pasadena	9,089	2,399	1,041	3,440
City of Burbank	15,149	3,604	1,566	5,170
City of Anaheim	40,396	34,442	14,958	49,400
City of Azusa	4,039	3,312	1,438	4,750
City of Banning	2,020	1,324	576	1,900
City of Colton	3,030	2,650	1,150	3,800
City of Riverside	30,296	25,831	11,219	37,050
City of Vernon	22,218	18,546	8,054	26,600
Arizona	189,860	140,600	60,800	201,400
Nevada	189,860	273,600	117,800	391,400
Totals	507,977	509,057	219,796	728,853

(C) To the Arizona Power Authority and the Colorado River Commission of Nevada and to purchasers in the State of California eligible to enter into such contracts under section 5 of the Boulder Canyon Project Act [43 U.S.C. 617d], contracts for delivery commencing October 1, 2017, of such energy generated at Hoover Dam as is available respectively to the States of Arizona, Nevada, and California in excess of 4,501.001 million kilowatthours in any year of operation (hereinafter called excess energy) in accordance with the following table:

**SCHEDULE C
EXCESS ENERGY**

Priority of entitlement to excess energy	State
First: Meeting Arizona's first priority right to delivery of excess energy which is equal in each year of operation to 200 million kilowatthours: Provided, That in the event excess energy in the amount of 200 million kilowatthours is not generated during any year of operation, Arizona shall accumulate a first right to delivery of excess energy subsequently generated in an amount not to exceed 600 million kilowatthours, inclusive of the current year's 200 million kilowatthours. Said first right of delivery shall accrue at a rate of 200 million kilowatthours per year for each year excess energy in an amount of 200 million kilowatthours is not generated, less amounts of excess energy delivered	Arizona
Second: Meeting Hoover Dam contractual obligations under Schedule A of subsection (a)(1)(A), under Schedule B of subsection (a)(1)(B), and under Schedule D of subsection (a)(2), not exceeding 26 million kilowatthours in each year of operation	Arizona, Nevada, and California
Third: Meeting the energy requirements of the three States, such available excess energy to be divided equally among the States	Arizona, Nevada, and California

(2)(A) The Secretary of Energy is authorized to and shall create from the apportioned allocation of contingent capacity and firm energy adjusted from the amounts authorized in this subchapter in 1984 to the amounts shown in Schedule A and Schedule B, as modified by the Hoover Power Allocation Act of 2011, a resource pool equal to 5 percent of the full rated capacity of 2,074,000 kilowatts, and associated firm energy, as shown in Schedule D (referred to in this section as "Schedule D contingent capacity and firm energy"):

**SCHEDULE D
LONG-TERM SCHEDULE D RESOURCE POOL OF CONTINGENT CAPACITY AND ASSOCIATED FIRM ENERGY FOR NEW**

ALLOTTEES

State	Contingent capacity (kW)	Firm energy (thousands of kWh)		
		Summer	Winter	Total
New Entities Allocated by the Secretary of Energy	69,170	105,637	45,376	151,013
New Entities Allocated by State				
Arizona	11,510	17,580	7,533	25,113
California	11,510	17,580	7,533	25,113
Nevada	11,510	17,580	7,533	25,113
Totals	103,700	158,377	67,975	226,352

(B) The Secretary of Energy shall offer Schedule D contingency capacity and firm energy to entities not receiving contingent capacity and firm energy under subparagraphs (A) and (B) of paragraph (1) (referred to in this section as "new allottees") for delivery commencing October 1, 2017 pursuant to this subsection. In this subsection, the term "the marketing area for the Boulder City Area Projects" shall have the same meaning as in appendix A of the Conformed General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects published in the Federal Register on December 28, 1984 (49 Federal Register 50582 et seq.) (referred to in this section as the "Criteria").

(C)(i) Within 36 months of December 20, 2011, the Secretary of Energy shall allocate through the Western Area Power Administration (referred to in this section as "Western"), for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 66.7 percent of the Schedule D contingent capacity and firm energy to new allottees that are located within the marketing area for the Boulder City Area Projects and that are—

- (I) eligible to enter into contracts under section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d); or
- (II) federally recognized Indian tribes.

(ii) In the case of Arizona and Nevada, Schedule D contingent capacity and firm energy for new allottees other than federally recognized Indian tribes shall be offered through the Arizona Power Authority and the Colorado River Commission of Nevada, respectively. Schedule D contingent capacity and firm energy allocated to federally recognized Indian tribes shall be contracted for directly with Western.

(D) Within 1 year of December 20, 2011, the Secretary of Energy also shall allocate, for delivery commencing October 1, 2017, for use in the marketing area for the Boulder City Area Projects 11.1 percent of the Schedule D contingent capacity and firm energy to each of—

- (i) the Arizona Power Authority for allocation to new allottees in the State of Arizona;
- (ii) the Colorado River Commission of Nevada for allocation to new allottees in the State of Nevada; and
- (iii) Western for allocation to new allottees within the State of California, provided that Western shall have 36 months to complete such allocation.

(E) Each contract offered pursuant to this subsection shall include a provision requiring the new allottee to pay a proportionate share of its State's respective contribution (determined in accordance with each State's applicable funding agreement) to the cost of the Lower Colorado River Multi-Species Conservation Program (as defined in section 9401 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1327)), and to execute the Boulder Canyon Project Implementation Agreement Contract No. 95–PAO–10616 (referred to in this section as the "Implementation Agreement").

(F) Any of the 66.7 percent of Schedule D contingent capacity and firm energy that is to be allocated by Western that is not allocated and placed under contract by October 1, 2017, shall be returned to those contractors shown in Schedule A and Schedule B in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy. Any of the 33.3 percent of Schedule D contingent capacity and firm energy that is to be distributed within the States of Arizona, Nevada, and California that is not allocated and placed under contract by October 1, 2017, shall be returned to the Schedule A and Schedule B contractors within the State in which the Schedule D contingent capacity and firm energy were to be distributed, in the same proportion as those contractors' allocations of Schedule A and Schedule B contingent capacity and firm energy.

(3) The total obligation of the Secretary of Energy to deliver firm energy pursuant to paragraphs (1)(A), (1)(B), and (2) is 4,527.001 million kilowatthours in each year of operation. To the extent that the actual generation at Hoover Powerplant in each year of operation (less deliveries thereof to Arizona required by its first priority under Schedule C of subsection (a)(1)(C) whenever actual generation in each year of operation is in excess of 4,501.001 million kilowatthours) is less than 4,527.001 million kilowatthours, such deficiency shall be borne by the holders of contracts under said ¹Schedules A, B, and D in the ratio that the sum of the quantities of firm energy to which each contractor is entitled pursuant to said schedules bears to 4,527.001 million kilowatthours. At the request of any such contractor, the Secretary of Energy will purchase energy to meet that contractor's deficiency at such contractor's expense.

(4) Subdivision C of the Criteria shall be deemed to have been modified to conform to this section, as modified by the Hoover Power Allocation Act of 2011. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of the regulations to such modifications.

(5) Each contract offered under subsection (a)(1) of this section shall:

- (A) in accordance with section 5(a) of the Boulder Canyon Project Act (43 U.S.C. 617d(a)), expire September 30, 2067;

(B) not restrict use to which the capacity and energy contracted for by the Metropolitan Water District of Southern California may be placed within the State of California: *Provided*, That to the extent practicable and consistent with sound water management and conservation practice, the Metropolitan Water District of Southern California shall allocate such capacity and energy to pump available Colorado River water prior to using such capacity and energy to pump California State water project water;

(C) conform to the applicable provisions of subdivision ² E of the Criteria, commencing at 48 Federal Register 20881, modified as provided in this section. To the extent that said provisions of the Criteria, as so modified, are applicable to contracts entered into under this section, those provisions are hereby ratified;

(D) authorize and require Western to collect from new allottees a pro rata share of Hoover Dam repayable advances paid for by contractors prior to October 1, 2017, and remit such amounts to the contractors that paid such advances in proportion to the amounts paid by such contractors as specified in section 6.4 of the Implementation Agreement;

(E) permit transactions with an independent system operator; and

(F) contain the same material terms included in section 5.6 of those long-term contracts for purchases from the Hoover Power Plant that were made in accordance with this subchapter and are in existence on December 20, 2011.

(b) Prejudice of rights of contract holders under Boulder Canyon Project Act

Nothing in the Criteria shall be construed to prejudice any rights conferred by the Boulder Canyon Project Act, as amended and supplemented [43 U.S.C. 617 et seq.], on the holder of a contract described in subsection (a) of this section not in default thereunder on September 30, 2067.

(c) Offer of contract to other entities

If any existing contractor fails to accept an offered contract, the Secretary of Energy shall offer the contingent capacity and firm energy thus available first to other entities in the same State listed in Schedule A and Schedule B, second to other entities listed in Schedule A and Schedule B, third to other entities in the same State which receive contingent capacity and firm energy under subsection (a)(2) of this section, and last to other entities which receive contingent capacity and firm energy under subsection (a)(2) of this section.

(d) Water availability

Except with respect to energy purchased at the request of an allottee pursuant to subsection (a)(3), the obligation of the Secretary of Energy to deliver contingent capacity and firm energy pursuant to contracts entered into pursuant to this section shall be subject to availability of the water needed to produce such contingent capacity and firm energy. In the event that water is not available to produce the contingent capacity and firm energy set forth in Schedule A, Schedule B, and Schedule D, the Secretary of Energy shall adjust the contingent capacity and firm energy offered under those Schedules in the same proportion as those contractors' allocations of Schedule A, Schedule B, and Schedule D contingent capacity and firm energy bears to the full rated contingent capacity and firm energy obligations.

(e) Congressional exercise of reserved right

The provisions of this section constitute an exercise by the Congress of the right reserved by it in section 5(b) of the Boulder Canyon Project Act, as amended and supplemented [43 U.S.C. 617d(b)], to prescribe terms and conditions for contracts for electrical energy generated at Hoover Dam. This section constitutes the exclusive method for disposing of capacity and energy from Hoover Dam for the period beginning October 1, 2017, and ending September 30, 2067.

(f) Court challenges; disputes and disagreements

(1) Notwithstanding any other provision of law, any claim that the provisions of subsection (a) of this section violates any rights to capacity or energy from the Boulder Canyon project is barred unless the complaint is filed within one year after December 20, 2011, in the United States Court of Federal Claims which shall have exclusive jurisdiction over this action. Any claim that actions taken by any administrative agency of the United States violates any right under this subchapter or the Boulder Canyon Project Act [43 U.S.C. 617 et seq.] or the Boulder Canyon Project Adjustment Act [43 U.S.C. 618 et seq.] is barred unless suit asserting such claim is filed in a Federal court of competent jurisdiction within one year after final refusal of such agency to correct the action complained of.

(2) Any contract entered into pursuant to this section or section 107 of this Act [42 U.S.C. 7133 note] shall contain provisions by which any dispute or disagreement as to interpretation or performance of the provisions of this subchapter or of applicable regulations or of the contract may be determined by arbitration or court proceedings. The Secretary of Energy or the Secretary of the Interior, as the case may be, if authorized to act for the United States in such arbitration or court proceedings and, except as provided in paragraph (1) of this subsection, jurisdiction is conferred upon any district court of the United States of proper venue to determine the dispute.

(g) Congressional declaration of purpose

It is the purpose of this subchapter to ensure that the rights of contractors for capacity and energy from the Boulder Canyon project for the period beginning October 1, 2017, and ending September 30, 2067, will vest with certainty and finality.

(Pub. L. 98–381, title I, §105, Aug. 17, 1984, 98 Stat. 1335; Pub. L. 102–572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 112–72, §2, Dec. 20, 2011, 125 Stat. 777.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(2)(A), (5)(F), (f), and (g), was in the original "this Act", meaning Pub. L. 98–381, [Aug. 17, 1984](#), 98 Stat. 1333, which enacted this subchapter and sections 7274 and 7275 of Title 42, and amended sections 617a, 617b, 618, 618a, 618e, 618k, and 1543 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 619 of this title and Tables.

The Hoover Power Allocation Act of 2011, referred to in subsec. (a)(2)(A) and (4), is Pub. L. 112–72, [Dec. 20, 2011](#), 125 Stat. 777, which amended this section and enacted provisions set out as a note under section 619 of this title. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 619 of this title and Tables.

The Boulder Canyon Project Act, referred to in subsecs. (b) and (f)(1), is act [Dec. 21, 1928, ch. 42](#), 45 Stat. 1057, which is classified generally to subchapter I (§617 et seq.) of this chapter. For complete classification of this Act to the Code, see section 617t of this title and Tables.

The Boulder Canyon Project Adjustment Act, referred to in subsec. (f)(1), is act [July 19, 1940, ch. 643](#), 54 Stat. 774, which is classified generally to subchapter II (§618 et seq.) of this chapter. For complete classification of this Act to the Code, see section 618o of this title and Tables.

Section 107 of this Act, referred to in subsec. (f)(2), is section 107 of Pub. L. 98–381, which is set out as a note under section 7133 of Title 42, The Public Health and Welfare.

AMENDMENTS

2011—Subsec. (a)(1)(A). Pub. L. 112–72, §2(a), substituted "contract for delivery commencing October 1, 2017" for "renewal contract for delivery commencing June 1, 1987", inserted Schedule A, and struck out former Schedule A relating to long term contingent capacity and associated firm energy reserved for renewal contract offers to current Boulder Canyon project contractors.

Subsec. (a)(1)(B). Pub. L. 112–72, §2(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) related to contract offers to purchasers in Arizona, Nevada, and California eligible to enter into such contracts under 43 U.S.C. 617d, for delivery commencing June 1, 1987, of capacity resulting from the uprating program and associated firm energy as provided in former Schedule B with certain provisos.

Subsec. (a)(1)(C). Pub. L. 112–72, §2(c), substituted "October 1, 2017" for "June 1, 1987", inserted Schedule C, and struck out former Schedule C relating to excess energy.

Subsec. (a)(2). Pub. L. 112–72, §2(d)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 112–72, §2(d)(1), (e), redesignated par. (2) as (3), in first sentence, substituted "paragraphs (1)(A), (1)(B), and (2)" for "schedule A of subsection (a)(1)(A) of this section and schedule B of subsection (a)(1)(B) of this section", and, in second sentence, substituted "each year of operation" for "any year of operation" in two places, "Schedule C" for "schedule C", and "Schedules A, B, and D" for "schedules A and B". Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 112–72, §2(d)(1), (f), redesignated par. (3) as (4) and amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Subdivision E of the 'General Consolidated Power Marketing Criteria or Regulations for Boulder City Area Projects' published in the Federal Register May 9, 1983 (48 Federal Register commencing at 20881), hereinafter referred to as the 'Criteria' or as the 'Regulations' shall be deemed to have been modified to conform to this section. The Secretary of Energy shall cause to be included in the Federal Register a notice conforming the text of said Regulations to such modifications." Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 112–72, §2(d)(1), redesignated par. (4) as (5).

Subsec. (a)(5)(A). Pub. L. 112–72, §2(g)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "expire September 30, 2017;".

Subsec. (a)(5)(B). Pub. L. 112–72, §2(g)(2), substituted "shall allocate" for "shall use" and struck out "and" after semicolon.

Subsec. (a)(5)(D) to (F). Pub. L. 112–72, §2(g)(3), (4), added subpars. (D) to (F).

Subsec. (b). Pub. L. 112–72, §2(h), substituted "2067" for "2017".

Subsec. (c). Pub. L. 112–72, §2(i), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to execution of contract with parties to certain litigation and offer of contract to other entities.

Subsec. (d). Pub. L. 112–72, §2(j), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "The uprating program authorized under section 619(a) of this title shall be undertaken with funds advanced under contracts made with the Secretary of the Interior by non-Federal purchasers described in subsection (a)(1)(B) of this section. Funding provided by non-Federal purchasers shall be advanced to the Secretary of the Interior pursuant to the terms and conditions of such contracts."

Subsec. (e). Pub. L. 112–72, §2(l), struck out "the renewal of" before "contracts for electrical energy" in first sentence and substituted "October 1, 2017, and ending September 30, 2067" for "June 1, 1987, and ending September 30, 2017" in second sentence.

Pub. L. 112–72, §2(k), redesignated subsec. (g) as (e) and struck out former subsec. (e) which read as follows: "Notwithstanding any other provisions of the law, funds advanced by non-Federal purchasers for

use in the uprating program shall be deposited in the Colorado River Dam Fund and shall be available for the uprating program."

Subsec. (f). Pub. L. 112–72, §2(k), redesignated subsec. (h) as (f) and struck out former subsec. (f) which read as follows: "Those amounts advanced by non-Federal purchasers shall be financially integrated as capital costs with other project costs for rate-setting purposes, and shall be returned to those purchasers advancing funds throughout the contract period through credits which include interest costs incurred by such purchasers for funds contributed to the Secretary of the Interior for the uprating program."

Subsec. (f)(1). Pub. L. 112–72, §2(m), substituted "December 20, 2011" for "August 17, 1984" in first sentence.

Subsec. (g). Pub. L. 112–72, §2(n), substituted "this subchapter" for "subsections (c), (g), and (h) of this section" and "October 1, 2017, and ending September 30, 2067" for "June 1, 1987, and ending September 30, 2017".

Pub. L. 112–72, §2(k)(2), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsecs. (h), (i). Pub. L. 112–72, §2(k)(2), redesignated subsecs. (h) and (i) as (f) and (g), respectively.

1992—Subsec. (h)(1). Pub. L. 102–572 substituted "United States Court of Federal Claims" for "United States Claims Court".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–572 effective Oct. 29, 1992, see section 911 of Pub. L. 102–572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

¹ So in original. The word "said" probably should not appear.

² So in original. Probably should be "subdivision".

§619b. Reimbursement of funds advanced by non-Federal purchasers; uprating program; repayment requirement; visitor facilities program

Reimbursement of funds advanced by non-Federal purchasers for the uprating program shall be a repayment requirement of the Boulder Canyon project beginning with the first day of the month following completion of each segment thereof. The cost of the visitor facilities program as defined in section 619(a) of this title shall become a repayment requirement beginning June 1, 1987, or when substantially completed, as determined by the Secretary of the Interior, if later.

(Pub. L. 98–381, title I, §106, Aug. 17, 1984, 98 Stat. 1339.)