

43 USC Ch. 40: RECLAMATION STATES EMERGENCY DROUGHT RELIEF**From Title 43—PUBLIC LANDS****CHAPTER 40—RECLAMATION STATES EMERGENCY DROUGHT RELIEF**

Sec.

2201. Definitions.

SUBCHAPTER I—DROUGHT PROGRAM

- 2211. Assistance during drought; water purchases.
- 2212. Availability of water on temporary basis.
- 2213. Loans.
- 2214. Applicable period of drought program.
- 2215. Assistance for drought-related planning in reclamation States.

SUBCHAPTER II—DROUGHT CONTINGENCY PLANNING

- 2221. Identification of opportunities for water supply conservation, augmentation and use.
- 2222. Drought contingency plans.
- 2223. Plan elements.
- 2224. Recommendations.
- 2225. Reclamation Drought Response Fund.
- 2226. Technical assistance and transfer of precipitation management technology.

SUBCHAPTER III—GENERAL AND MISCELLANEOUS PROVISIONS

- 2241. Authorization of appropriations.
- 2242. Authority of Secretary.
- 2243. Temperature control at Shasta Dam, Central Valley Project.
- 2244. Effect of chapter on other laws.
- 2245. Excess storage and carrying capacity.
- 2246. Report.
- 2247. Federal Reclamation laws.

§2201. Definitions

As used in this chapter:

- (1) The term "Secretary" means the Secretary of the Interior.
- (2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.
- (3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044) [43 U.S.C. 422a et seq.].

(Pub. L. 102–250, §2, Mar. 5, 1992, 106 Stat. 53.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in par. (2), 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 Small Reclamation Projects Act of 1956, referred to in par. (3), is act [Aug. 6, 1956, ch. 972](#), 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§422a et seq.) of chapter 12 of this title. For complete classification of this Act to the Code, see section 422k of this title and Tables.

SHORT TITLE

Pub. L. 102–250, §1, Mar. 5, 1992, 106 Stat. 53, provided that: "This Act [enacting this chapter] may be cited as the 'Reclamation States Emergency Drought Relief Act of 1991'."

BUILDING NATIONAL CAPABILITIES FOR LONG-TERM DROUGHT RESILIENCE

Memorandum of President of the United States, Mar. 21, 2016, 81 F.R. 16053, provided:

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

SECTION 1. Purpose. Our Nation must sustain and expand efforts to reduce the vulnerability of communities to the impacts of drought. Every year, drought affects millions of Americans and poses a serious and growing threat to the security and economies of communities nationwide. Drought presents challenges to the viability of agricultural production and to the quantity and quality of drinking water supplies that communities and industries depend upon. Drought jeopardizes the integrity of critical infrastructure, causes extensive economic and health impacts, harms ecosystems, and increases energy costs. In responding to and recovering from past droughts, we have learned that focused collaboration across all levels of government and the private sector is critical to enable productive and workable solutions to build regional resilience to drought.

Among other actions, this memorandum institutionalizes the National Drought Resilience Partnership (NDRP), which builds upon the National Integrated Drought Information System, an interagency program led by the Department of Commerce. The NDRP was outlined in the President's Climate Action Plan to better coordinate Federal support for drought-related efforts, help communities reduce the impact of current drought events, and prepare for future droughts. In sustaining this focused collaboration, the NDRP will provide the Federal Government with a lasting platform that enables locally and regionally driven priorities and needs to guide coordinated Federal activities.

SEC. 2. Policy. It is the policy of the Federal Government to coordinate and use applicable Federal investments, assets, and expertise to promote drought resilience and complement drought preparedness, planning, and implementation efforts of State, regional, tribal, and local institutions. In addition, where appropriate, the Federal Government shall seek partnerships with such institutions and the private sector in order to increase and diversify our Nation's water resources through the development and deployment of new technologies and improved access to alternative water supplies. Agencies shall also work with State, regional, tribal, and local institutions to support their efforts to maintain and enhance the long-term health and resilience of working lands and ecosystems. In carrying out this memorandum, executive departments and agencies (agencies) shall continue to recognize the primacy of States, regions, tribes, and local water users in building their resilience to drought.

SEC. 3. Drought Resilience Goals. (a) The heads of agencies shall, to the extent permitted by law and to the maximum extent possible, carry out the policy described in section 2 of this memorandum by implementing policies and taking actions to achieve the following drought resilience goals:

(i) *Data Collection and Integration.* Agencies shall share data and information related to drought, water use, and water availability, including data on snowpack, groundwater, stream flow, and soil moisture with State, regional, tribal, and local officials to strengthen decisionmaking to support more adaptive responses to drought and drought risk.

(ii) *Communicating Drought Risk to Critical Infrastructure.* Agencies shall communicate with State, regional, tribal, local, and critical infrastructure officials, targeted information about drought risks, including specific risks to critical infrastructure.

(iii) *Drought Planning and Capacity Building.* Agencies shall assist State, regional, tribal, and local officials in building local planning capacity for drought preparedness and resilience.

(iv) *Coordination of Federal Drought Activity.* Agencies shall improve the coordination and integration of drought-related activities to enhance the collective benefits of Federal programs and investments.

(v) *Market-Based Approaches for Infrastructure and Efficiency.* Agencies shall support the advancement of innovative investment models and market-based approaches to increase resilience, flexibility, and efficiency of water use and water supply systems.

(vi) *Innovative Water Use, Efficiency, and Technology.* Agencies shall support efforts to conserve and make efficient use of water by carrying out relevant research, innovation, and international engagements.

(b) The NDRP, as described in section 5 of this memorandum, shall facilitate, coordinate, and monitor the implementation of the actions conducted to achieve these goals.

SEC. 4. Drought Resilience Actions. In furtherance of the policies and goals described in this memorandum, I hereby direct agencies to take, subject to the availability of appropriations, by December 31, 2016, the following actions:

(a) *Data Collection and Integration.*

(i) The heads of agencies participating in the NDRP shall:

- (A) improve the integration of all relevant drought-related data and information, and facilitate the use of such data, in coordination with the National Integrated Drought Information System, by State, regional, tribal, and local officials in drought planning and decisionmaking; and
- (B) identify and use data formats that will allow these datasets to be incorporated into existing geospatial data platforms.
- (ii) The Secretaries of the Interior, Agriculture, Commerce, and the Director of the Office of Science and Technology Policy shall coordinate the implementation of the activities described in section 4(a)(i) of this memorandum.
- (b) *Drought Planning and Capacity Building.*
- (i) The heads of agencies participating in the NDRP shall:
 - (A) provide technical and scientific information to State, regional, tribal, and local officials concerning the integration of drought planning, hazard mitigation, and preparedness planning; and
 - (B) ensure that local and regional officials are aware of drought-related planning activities and similar initiatives occurring in their region, which will avoid duplication of effort and prompt peer-to-peer collaboration.
- (ii) The Secretaries of the Interior, Agriculture, Commerce, and Homeland Security shall coordinate the implementation of the activities described in section 4(b)(i) of this memorandum.
- (c) *Communicating Drought Risk to Critical Infrastructure.*
- (i) The heads of agencies participating in the NDRP shall:
 - (A) support information gathering and analysis to assess the risk of drought to critical infrastructure; and
 - (B) use the assessment described in section 4(c)(ii) of this memorandum to inform agencies and to better communicate accurate, science-based information about drought, and the risks of drought to communities, critical infrastructure owners and operators, and other drought resilience stakeholders.
- (ii) The Secretaries of Commerce and Homeland Security shall coordinate the implementation of the activities described in section 4(c)(i) of this memorandum and jointly publish an assessment describing the risk that drought poses to U.S. critical infrastructure.
- (d) *Coordination of Federal Drought Activity.*
- (i) The heads of agencies participating in the NDRP shall:
 - (A) coordinate and use Federal programs and investments to better support drought resilience through improved information sharing and collaboration, building on existing place-based and program coordination efforts; and
 - (B) develop tools, guidance, and other relevant resources to ensure drought-related support to State, regional, tribal, and local officials occurs in an effective and efficient manner.
- (ii) The Secretaries of the Interior, Agriculture, Commerce, and the Army shall coordinate the implementation of the activities described in section 4(d)(i) of this memorandum.
- (e) *Market-Based Approaches for Infrastructure and Efficiency.*
- (i) The heads of agencies participating in the NDRP shall:
 - (A) identify and share effective practices with State, regional, tribal, and local water users on the use of innovative financing opportunities to facilitate the construction, maintenance, rehabilitation, or restoration of drought-resilient infrastructure;
 - (B) test innovative financing opportunities, to the extent permitted by law, to attract private investment into underserved and drought-sensitive rural water infrastructure; and
 - (C) where appropriate, provide technical assistance to support State and local efforts to develop strategies for more flexible water management, including through market-based mechanisms.
- (ii) The Secretaries of the Interior and Agriculture and the Administrator of the Environmental Protection Agency shall coordinate the implementation of the activities described in section 4(e)(i) of this memorandum.
- (f) *Innovative Water Use, Efficiency, and Technology.*
- (i) The heads of agencies participating in the NDRP shall:
 - (A) engage with foreign partners in order to establish mechanisms through which to implement relevant research, monitoring, and technical assistance to support transfer and adaptation of more water-efficient practices and technologies domestically;
 - (B) facilitate the development of new technologies and practices or the expansion of existing technologies and practices to mitigate the consequences of drought; and
 - (C) promote expanded use of technologies that allow the use of produced, reused, brackish, recycled, or other alternative water sources where possible and appropriate.
- (ii) The Secretaries of State, Agriculture, Energy, the Interior, and the Environmental Protection Agency shall coordinate the implementation of the activities described in section 4(f)(i) of this memorandum.

SEC. 5. *National Drought Resilience Partnership.*

(a) *Establishment and Function.* There is established the National Drought Resilience Partnership (NDRP) as an interagency task force that is responsible for enhancing coordination of Federal drought resilience policies and monitoring the implementation of the activities and goals described in this memorandum.

(b) *Administration of the NDRP.* The NDRP administrative functions will be housed within the Department of Agriculture, which shall provide funding and administrative support for the NDRP to the extent permitted by law and within existing appropriations.

(c) *Membership.* The NDRP shall consist of representatives, serving at the Assistant Secretary-level or higher, from the following:

- (i) the Department of Defense, Office of the Secretary of Defense-Policy;
- (ii) the Department of the Interior;
- (iii) the Department of Agriculture;
- (iv) the Department of Commerce;
- (v) the Department of Energy;
- (vi) the Department of Homeland Security;
- (vii) the Environmental Protection Agency;
- (viii) the Office of Management and Budget;
- (ix) the Office of Science and Technology Policy;
- (x) the National Economic Council;
- (xi) the Council on Environmental Quality;
- (xii) the National Security Council staff;
- (xiii) the Army; and
- (xiv) such other agencies or offices as the agencies set forth above, by consensus, deem appropriate.

(d) *NDRP Co-Chairs.* The NDRP shall have two Co-Chairs. The Secretary of Agriculture, or the Secretary's designated representative, shall continuously serve as the first Co-Chair of the NDRP. The Secretary of Commerce, or the Secretary's designated official, shall serve as the second Co-Chair for a period of 2 years. The NDRP members shall rotate the second Co-Chair responsibility every 2 years based on majority vote among the Departments of Defense, the Interior, Commerce, Energy, Homeland Security, and the Environmental Protection Agency. Members serving as the second Co-Chair shall not serve in that role over consecutive periods. The NDRP shall meet at minimum on a quarterly basis, with additional meetings as needed.

(e) *Charter.* Within 90 days of the date of this memorandum, the Co-Chairs of the NDRP shall, with consensus of the members, complete a charter, which shall include any administrative policies and processes necessary to ensure the NDRP can satisfy the functions and responsibilities described in this memorandum.

(f) *Reporting Requirements and Action Plan.* Within 150 days of the date of this memorandum, the Co-Chairs of the NDRP shall submit a report to the Co-Chairs of the Council on Climate Preparedness and Resilience established by Executive Order 13653 of November 1, 2013. The report shall describe the activities undertaken and progress made concerning the implementation of this memorandum and shall include, to the extent necessary and applicable, information from all NDRP participants. Thereafter, the Co-Chairs of the NDRP shall provide updates on the implementation of the goals described in section 3 of this memorandum to the Council on Climate Preparedness and Resilience following the NDRP's quarterly meetings, and annually in the National Preparedness Report, established in Presidential Policy Directive-8 or other appropriate annual reports submitted to the President.

(g) *Long-Term Drought Resilience Action Plan.* The NDRP Co-Chairs, with consensus of the NDRP agencies, shall maintain the Long-Term Drought Resilience Federal Action Plan (the "Action Plan") and update the Action Plan as necessary. The heads of agencies participating in the NDRP shall implement the Action Plan, or any successor plan or strategy promulgated by the NDRP to guide how agencies achieve the six drought resilience goals set forth in section 3 of this memorandum.

SEC. 6. *Regional Coordination and Implementation.*

(a) *Regional Capabilities.* The heads of agencies participating in the NDRP shall establish, and utilize through their regional and field offices, cross-agency methods to coordinate Federal assistance provided to States, regions, tribes, and localities facing drought challenges. These capabilities shall be integrated with existing regional planning and coordination initiatives, including with appropriate resiliency efforts conducted by State, regional, tribal, and local drought stakeholders.

(b) *Regional Engagement Coordination.* In regions where complementary drought resilience activities are implemented by multiple Federal agencies, those agencies shall coordinate regional outreach strategies. Further, these agencies shall collectively coordinate regional outreach and engagement efforts with the goal of reducing duplication of effort for State, regional, tribal, and local stakeholders.

SEC. 7. *Definitions.* (a) "Agencies" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies.

(b) "Critical infrastructure" has the meaning provided in section 1016(e) of the USA Patriot Act of 2001 (42 U.S.C. 5195c(e)), namely, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(c) "Drought" has the meaning provided in section 2(1) of the National Integrated Drought Information System Act of 2006 (15 U.S.C. 313d note), namely, a deficiency in precipitation that leads to a deficiency in surface or subsurface water supplies (including rivers, streams, wetlands, groundwater, soil moisture, reservoir supplies, lake levels, and snow pack); and that causes or may cause substantial economic or social impacts or substantial physical damage or injury to individuals, property, or the environment.

(d) "Drought resilience" means the ability to anticipate, prepare for, and adapt to the anticipated consequences of drought conditions, particularly long-term or extreme drought.

(e) "Resilience" means the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from disruptions.

SEC. 8. *General Provisions.* (a) This memorandum shall be implemented consistent with applicable laws, including international treaties, agreements, and obligations, and subject to the availability of appropriations.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Agriculture is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

SUBCHAPTER I—DROUGHT PROGRAM

§2211. Assistance during drought; water purchases

(a) Construction, management, and conservation

Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damages from drought conditions may be permanent facilities.

(b) Assistance to willing buyers and sellers

In order to minimize losses and damages resulting from drought conditions, the Secretary may provide nonfinancial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) Water purchases by Bureau

In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 2212 of this title: *Provided*, That any such contract shall require recovery of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) Water banks

In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State. (Pub. L. 102–250, title I, §101, Mar. 5, 1992, 106 Stat. 53.)

REFERENCES IN TEXT

The Bureau, referred to in heading for subsec. (c), probably means the Bureau of Reclamation.

TERMINATION OF AUTHORITIES

For provisions directing that authorities established under this subchapter shall terminate ten years after Mar. 5, 1992, see section 2214(c) of this title.

DESERT TERMINAL LAKES

Pub. L. 107–206, [title I, §103, Aug. 2, 2002](#), 116 Stat. 823, which provided that not later than 14 days after Aug. 2, 2002, the Secretary of Agriculture was to carry out a transfer of funds under section 2507(a) of Pub. L. 107–171, formerly set out below, was transferred and is set out as a note under section 3839bb–6 of Title 16, Conservation.

Pub. L. 107–171, [title II, §2507, May 13, 2002](#), 116 Stat. 275, as amended by Pub. L. 110–234, [title II, §2807, May 22, 2008](#), 122 Stat. 1090; Pub. L. 110–246, [§4\(a\), title II, §2807, June 18, 2008](#), 122 Stat. 1664, 1818; Pub. L. 111–85, [title II, §207, Oct. 28, 2009](#), 123 Stat. 2858; Pub. L. 112–74, [div. B, title II, §208\(a\), Dec. 23, 2011](#), 125 Stat. 866; Pub. L. 113–79, [title II, §2507, Feb. 7, 2014](#), 128 Stat. 753, which related to terminal lakes assistance, was transferred to section 3839bb–6 of Title 16, Conservation.

§2212. Availability of water on temporary basis

(a) General authority

In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and nonproject water, and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or nonproject water, for use both within and outside an authorized project service area.

(b) Special provisions applicable to temporary water supplies provided under this section

(1) Temporary supplies

Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) Ownership and acreage limitations

Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) Treatment under Reclamation Reform Act of 1982

No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97–293) [43 U.S.C. 390cc(a), 390tt].

(4) Amendments of existing contracts

Any amendment to an existing contract to allow a contractor to carry out the provisions of this subchapter shall not be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97–293) [43 U.S.C. 390aa et seq.].

(c) Contract price

The price for project water, other than water purchased pursuant to section 2211(c) of this title, delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to nonproject landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1263; 43 U.S.C. 390bb) [43 U.S.C. 390bb(3)]). For all contracts entered into by the Secretary under the authority of this subchapter—

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this chapter shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract; or

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project; or

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial

purposes from existing facilities to nonproject contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) Fish and wildlife

The Secretary may make water from Federal Reclamation projects and nonproject water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and nonproject water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) Nonproject water

The Secretary is authorized to store and convey nonproject water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to subsection (c).

(f) Reclamation Fund

The payment of capital costs attributable to the sale of project or nonproject water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

(Pub. L. 102–250, [title I](#), [§102](#), [Mar. 5, 1992](#), 106 Stat. 54.)

REFERENCES IN TEXT

The Reclamation Reform Act of 1982, referred to in subsec. (b)(4), is title II of Pub. L. 97–293, [Oct. 12, 1982](#), 96 Stat. 1263, which enacted subchapter I–A (§390aa et seq.) of chapter 12 of this title, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

TERMINATION OF AUTHORITIES

For provisions directing that authorities established under this subchapter shall terminate ten years after Mar. 5, 1992, see section 2214(c) of this title.

§2213. Loans

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided*, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan: *Provided further*, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 390cc(a) and 390tt of this title and sections 105 and 106 of Public Law 99–546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives in writing of any loan which the Secretary intends to approve not less than thirty days prior to granting final approval.

(Pub. L. 102–250, [title I](#), [§103](#), [Mar. 5, 1992](#), 106 Stat. 55; Pub. L. 103–437, [§16\(a\)\(6\)](#), [Nov. 2, 1994](#), 108 Stat. 4594.)

REFERENCES IN TEXT

Sections 105 and 106 of Public Law 99–546, referred to in text, are sections 105 and 106 of Pub. L. 99–546, [title I](#), [Oct. 27, 1986](#), 100 Stat. 3051, [3052](#), relating to the automatic adjustment of rates for contracts for delivery of water from the Central Valley project in California, and provisions of such contracts requiring repayment by project water contractors of any deficits in payments of operation and maintenance costs, respectively, and are not classified to the Code.

AMENDMENTS

1994—Pub. L. 103–437 substituted "Natural Resources" for "Interior and Insular Affairs" before "of the House".

TERMINATION OF AUTHORITIES

For provisions directing that authorities established under this subchapter shall terminate ten years after Mar. 5, 1992, see section 2214(c) of this title.

§2214. Applicable period of drought program

(a) In general

The programs and authorities established under this subchapter shall become operative in any Reclamation State and in the State of Hawaii only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in subchapter II of this chapter.

(b) Coordination with BPA

If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) Termination of authority

The authorities established under this subchapter shall terminate on September 30, 2020.

(Pub. L. 102–250, title I, §104, Mar. 5, 1992, 106 Stat. 56; Pub. L. 106–566, title II, §201(a), Dec. 23, 2000, 114 Stat. 2820; Pub. L. 109–234, title II, §2306(a), June 15, 2006, 120 Stat. 456; Pub. L. 111–212, title I, §404(a), July 29, 2010, 124 Stat. 2313; Pub. L. 113–76, div. D, title II, §206, Jan. 17, 2014, 128 Stat. 164; Pub. L. 115–141, div. D, title II, §203(a), Mar. 23, 2018, 132 Stat. 519.)

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–141 substituted "2020" for "2017".

2014—Subsec. (c). Pub. L. 113–76 substituted "2017" for "2012".

2010—Subsec. (c). Pub. L. 111–212 substituted "September 30, 2012" for "September 30, 2010".

2006—Subsec. (c). Pub. L. 109–234 substituted "September 30, 2010" for "September 30, 2005".

2000—Subsec. (a). Pub. L. 106–566, §201(a)(1), inserted "and in the State of Hawaii" after "Reclamation State".

Subsec. (c). Pub. L. 106–566, §201(a)(2), substituted "on September 30, 2005" for "ten years after March 5, 1992".

§2215. Assistance for drought-related planning in reclamation States

(a) In general

The Secretary may provide financial assistance in the form of cooperative agreements in States that are eligible to receive drought assistance under this subchapter to promote the development of drought contingency plans under subchapter II.

(b) Report

Not later than one year after December 23, 2000, the Secretary shall submit to the Congress a report and recommendations on the advisability of providing financial assistance for the development of drought contingency plans in all entities that are eligible to receive assistance under subchapter II.

(Pub. L. 102–250, title I, §105, as added Pub. L. 106–566, title II, §201(b), Dec. 23, 2000, 114 Stat. 2820.)

SUBCHAPTER II—DROUGHT CONTINGENCY PLANNING

§2221. Identification of opportunities for water supply conservation, augmentation and use

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

(Pub. L. 102–250, [title II, §201, Mar. 5, 1992](#), 106 Stat. 56.)

§2222. Drought contingency plans

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this subchapter referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

(Pub. L. 102–250, [title II, §202, Mar. 5, 1992](#), 106 Stat. 56.)

§2223. Plan elements

(a) Plan provisions

Elements of the contingency plans prepared pursuant to section 2222 of this title may include, but are not limited to, any or all of the following:

- (1) Water banks.
- (2) Appropriate water conservation actions.
- (3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.
- (4) Use of Federal Reclamation project facilities to store and convey nonproject water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.
- (5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.
- (6) Water supplies for fish and wildlife resources.
- (7) Minor structural actions.

(b) Federal Reclamation projects

Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects:

- (1) Those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project.
- (2) Those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) Drought levels

The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) Compliance with law

The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 2265(a) of title 33, and the Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], and shall be in accordance with applicable State law.

(e) Review

The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

(Pub. L. 102–250, [title II, §203, Mar. 5, 1992](#), 106 Stat. 57.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (d), is Pub. L. 91–190, [Jan. 1, 1970](#), 83 Stat. 852, as amended, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The

Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Fish and Wildlife Coordination Act, referred to in subsec. (d), is act [Mar. 10, 1934, ch. 55](#), 48 Stat. 401, which is classified generally to sections 661 to 666c–1 of Title 16, Conservation. For complete classification of this Act to the Code, see section 661(a) of Title 16, Short Title note set out under section 661 of Title 16, and Tables.

§2224. Recommendations

(a) Approval

The Secretary shall submit each plan prepared pursuant to section 2222 of this title to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) Pacific Northwest region

A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

(Pub. L. 102–250, [title II, §204](#), [Mar. 5, 1992](#), 106 Stat. 57.)

§2225. Reclamation Drought Response Fund

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 2222 of this title and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

(Pub. L. 102–250, [title II, §205](#), [Mar. 5, 1992](#), 106 Stat. 58.)

§2226. Technical assistance and transfer of precipitation management technology

(a) Technical assistance

The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 391 of this title, and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) Technology Transfer Program

The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50–50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

(Pub. L. 102–250, [title II, §206](#), [Mar. 5, 1992](#), 106 Stat. 58.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER III—GENERAL AND MISCELLANEOUS PROVISIONS

§2241. Authorization of appropriations

Except as otherwise provided in section 2243 of this title (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than \$120,000,000 in total for the period of fiscal years 2006 through 2020.

(Pub. L. 102–250, [title III, §301, Mar. 5, 1992](#), 106 Stat. 58; Pub. L. 104–206, [title II, Sept. 30, 1996](#), 110 Stat. 2992; Pub. L. 106–60, [title II, Sept. 29, 1999](#), 113 Stat. 488; Pub. L. 106–377, [§1\(a\)\(2\) \[title II\], Oct. 27, 2000](#), 114 Stat. 1441, [1441A-67](#); Pub. L. 107–66, [title II, Nov. 12, 2001](#), 115 Stat. 498; Pub. L. 108–7, [div. D, title II, Feb. 20, 2003](#), 117 Stat. 144; Pub. L. 108–137, [title II, Dec. 1, 2003](#), 117 Stat. 1847; Pub. L. 109–234, [title II, §2306\(b\), June 15, 2006](#), 120 Stat. 457; Pub. L. 111–212, [title I, §404\(b\), July 29, 2010](#), 124 Stat. 2314; Pub. L. 113–235, [div. D, title II, §204, Dec. 16, 2014](#), 128 Stat. 2311; Pub. L. 115–141, [div. D, title II, §203\(b\), Mar. 23, 2018](#), 132 Stat. 519.)

AMENDMENTS

2018—Pub. L. 115–141 substituted "\$120,000,000" for "\$90,000,000" and "2020" for "2017".

2014—Pub. L. 113–235 substituted "2017" for "2012".

2010—Pub. L. 111–212 substituted "through 2012" for "through 2010".

2006—Pub. L. 109–234 substituted "the period of fiscal years 2006 through 2010" for "fiscal years 1992, 1993, 1994, 1995, 1996, 1999, 2000, 2001, 2002, 2003, and 2004".

2003—Pub. L. 108–137 substituted "2003, and 2004" for "and 2003".

Pub. L. 108–7 substituted "2002, and 2003" for "and 2002".

2001—Pub. L. 107–66 substituted "2001, and 2002" for "and 2001".

2000—Pub. L. 106–377 substituted "2000, and 2001" for "and 2000".

1999—Pub. L. 106–60 substituted "1999, and 2000" for "and 1997".

1996—Pub. L. 104–206 substituted "1996, and 1997" for "and 1996".

§2242. Authority of Secretary

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this chapter. In carrying out the authorities under this chapter, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

(Pub. L. 102–250, [title III, §302, Mar. 5, 1992](#), 106 Stat. 58.)

§2243. Temperature control at Shasta Dam, Central Valley Project

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than \$12,000,000.

(Pub. L. 102–250, [title III, §303, Mar. 5, 1992](#), 106 Stat. 58.)

§2244. Effect of chapter on other laws

(a) Conformity with State and Federal law

All actions taken pursuant to this chapter pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) Effect on jurisdiction, authority, and water rights

Nothing in this chapter shall be construed as expanding or diminishing State, Federal, or tribal jurisdiction or authority over water resources development, control, or water rights.

(Pub. L. 102–250, [title III, §304, Mar. 5, 1992](#), 106 Stat. 59.)

§2245. Excess storage and carrying capacity

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of nonproject water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

(Pub. L. 102–250, [title III](#), [§305](#), [Mar. 5, 1992](#), 106 Stat. 59.)

REFERENCES IN TEXT

Act of February 21, 1911, referred to in text, is act [Feb. 21, 1911](#), [ch. 141](#), 36 Stat. 925, popularly known as the Warren Act, which enacted sections 523 to 525 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 523 of this title and Tables.

§2246. Report

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this chapter.

(Pub. L. 102–250, [title III](#), [§306](#), [Mar. 5, 1992](#), 106 Stat. 59.)

§2247. Federal Reclamation laws

This chapter shall constitute a supplement to the Federal Reclamation laws.

(Pub. L. 102–250, [title III](#), [§307](#), [Mar. 5, 1992](#), 106 Stat. 59.)