# TITLE 43—PUBLIC LANDS


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## CHAPTER 1—BUREAU OF LAND MANAGEMENT


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### § 1. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632

Section, R.S. § 446; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided that there shall be in the Department of the Interior a Director of the Bureau of Land Management. Provision for a Bureau of Land Management in the Department of the Interior and for the structure of such Bureau is contained in section 403 of the 1946 Reorg. Plan No. 3, which is set out below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-

tain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

For transfer of records, property, personnel, and funds, see sections 1001 to 1003 of Reorg. Plan No. 3 of 1946, eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, set out in the Appendix to Title 5, Government Organization and Employees.

BUREAU OF LAND MANAGEMENT CREATED

Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided:

''(a) The functions of the General Land Office and of the Grazing Service in the Department of the Interior are hereby consolidated to form a new agency in the Department of the Interior to be known as the Bureau of Land Management. The functions of the other agencies named in subsection (d) of this section are hereby transferred to the Secretary of the Interior.

''(b) There shall be at the head of such Bureau a Director of the Bureau of Land Management, who shall be appointed by the Secretary of the Interior under the classified civil service, who shall receive a salary at the rate of $10,000 per annum, and who shall perform such duties as the Secretary of the Interior shall designate.

''(c) There shall be in the Bureau of Land Management an Associate Director of the Bureau of Land Management and so many Assistant Directors of the Bureau of Land Management as may be necessary, who shall be appointed by the Secretary of the Interior under the classified civil service and subject to the Classification Act of 1923, as amended, and who shall perform such duties as the Secretary of the Interior may prescribe.

''(d) The General Land Office, the Grazing Service, the offices of Commissioner of the General Land Office, Assistant Commissioner of the General Land Office, Director of the Grazing Service, all Assistant Directors of the Grazing Service, all registers of the district land offices, and United States Supervisor of Surveys, together with the Field Surveying Service now known as the Cadastral Engineering Service, are hereby abolished.

''(e) The Bureau of Land Management and its functions shall be administered subject to the direction and control of the Secretary of the Interior, and the functions transferred to the Secretary by subsection (a) of this section shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate.''

## § 2. Duties concerning public lands

The Secretary of the Interior or such officer as he may designate shall perform all executive duties appertaining to the surveying and sale of the public lands of the United States, or in anywise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all grants of land under the authority of the Government.

(R.S. §453; Feb. 18, 1875, ch. 80, §1, 18 Stat. 317; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. §453 derived from acts Apr. 25, 1812, ch. 68, §1, 2 Stat. 716; July 4, 1836, ch. 352, §1, 5 Stat. 107; June 6, 1874, ch. 223, 18 Stat. 62; Feb. 18, 1875, ch. 80, §1, 18 Stat. 317.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''The Secretary of the Interior or such officer as he may designate shall perform'' substituted for ''The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior,'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

BUREAU OF LAND MANAGEMENT DRUG ENFORCEMENT SUPPLEMENTAL AUTHORITY

Pub. L. 99–570, title V, subtitle C, as added by Pub. L. 100–690, title VII, §6254(d)(3), Nov. 18, 1988, 102 Stat. 4365, provided that:

''SEC. 5061. SHORT TITLE.

''This subtitle may be cited as the 'Bureau of Land Management Drug Enforcement Supplemental Authority Act'.

''SEC. 5062. BUREAU OF LAND MANAGEMENT AUTHORIZATION.

''In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances on Bureau of Land Management public lands, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,500,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of additional and existing personnel, for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.''

## § 3. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 636

Section, acts July 11, 1890, ch. 667, §1, 26 Stat. 257; June 17, 1910, ch. 297, 36 Stat. 512, provided for the office of an assistant commissioner of the General Land Office, which was subsequently abolished by Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. That Plan provided for a Bureau of Land Management, including an Associate Director and as many Assistant Directors as the Secretary of the Interior may find necessary. See note set out under section 1 of this title.

## § 3a. Omitted

CODIFICATION

Section, act June 5, 1942, ch. 336, §1, 56 Stat. 312, provided for assistant or deputy commissioners of the General Land Office and Bureau of Indian Affairs. Insofar as it related to the General Land Office it was superseded by Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out as a note under section 1 of this title. Provisions unaffected by the Plan relating to the Bureau of Indian Affairs are set out as section 2a of Title 25, Indians.

## §§ 4, 5. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 641

Section 4, act May 22, 1908, ch. 186, 35 Stat. 225, which provided for a temporary assistant commissioner of the General Land Office, was superseded by Reorg. Plan No. 3 of 1946, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out as a note under section 1 of this title.

Section 5, R.S. §447, provided for a recorder of the former General Land Office.

## § 6. Duties of employees to certify, record, etc., patents

It shall be the duty of such officers or employees of the Bureau of Land Management as may be designated by the Secretary of the Interior, in pursuance of instructions from the Secretary

of the Interior or such officer as he may designate, to certify and affix the seal of the office to all patents for public lands, and to attend to the correct engrossing, recording, and transmission of such patents. They shall prepare alphabetical indexes of the names of patentees, and of persons entitled to patents; and shall prepare such copies and exemplifications of matters on file or recorded in the Bureau of Land Management as the Secretary or such officer may from time to time direct.

(R.S. § 459; 1940 Reorg. Plan No. III, § 4, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 459 derived from acts Apr. 25, 1812, ch. 68, § 8, 2 Stat. 717; July 4, 1836, ch. 352, § 4, 5 Stat. 111.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' and references to the Commissioner were changed to Secretary of the Interior or such officer as he may designate on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Office of Recorder of General Land Office abolished and functions of recorder directed to be exercised under direction and supervision of Secretary of the Interior, through such officers or employees of General Land Office as he may designate, on authority of section 4 of Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees. See also sections 8 and 9 of Reorg. Plan No. III of 1940 for provisions relating to transfer of records, property, personnel, and funds.

### § 7. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 641

Section, act May 22, 1908, ch. 186, 35 Stat. 225, authorized Secretary of the Interior to designate a temporary recorder for former General Land Office in certain cases. Reorg. Plan No. III of 1940, § 4, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees, abolished office of Recorder of former General Land Office and provided that his functions should be exercised under direction and supervision of Secretary of the Interior through those officers or employees of former General Land Office as he might designate.

### § 8. Omitted

CODIFICATION

Section, act June 29, 1948, ch. 754, 62 Stat. 1114, provided for one clerk in the Bureau of Land Management to sign land patents, was from the Department of the Interior Appropriation Act, 1949, and was not repeated in subsequent appropriation acts.

A prior section 8, R.S. § 450; acts June 19, 1878, ch. 329, 20 Stat. 183; May 24, 1922, ch. 199, 42 Stat. 552; Jan. 24, 1923, ch. 42, 42 Stat. 1174; June 5, 1924, ch. 264, 43 Stat. 391; Mar. 3, 1925, ch. 462, 43 Stat. 1142; May 10, 1926, ch. 277, 44 Stat. 456; Jan. 12, 1927, ch. 27, 44 Stat. 937; Mar. 7, 1928, ch. 137, 45 Stat. 202; Mar. 4, 1929, ch. 705, 45 Stat. 1564; May 14, 1930, ch. 273, 46 Stat. 281; Feb. 14, 1931, ch. 187, 46 Stat. 1117; Apr. 22, 1932, ch. 125, 47 Stat. 92; Feb. 17, 1933, ch. 98, 47 Stat. 822; Mar. 2, 1934, ch. 38, 48 Stat. 364; May 9, 1935, ch. 101, 49 Stat. 180; June 22, 1936, ch. 691, 49 Stat. 1761; Aug. 9, 1937, ch. 570, 50 Stat. 568; May 9, 1938, ch. 187, 52 Stat. 295; May 10, 1939, ch. 119, 53 Stat. 691; June 18, 1940, ch. 395, 54 Stat. 411; June 28, 1941, ch. 259, 55 Stat. 309; July 2, 1942, ch. 473, 56 Stat. 511; July 12, 1943, ch. 219, 57 Stat. 455; June 28, 1944, ch. 298, 58 Stat. 468; July 3, 1945, ch. 262, 59 Stat. 322; July 1, 1946, ch. 529, 60 Stat. 352; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; July 25, 1947, ch. 337, 61 Stat. 460, was repealed by act June 17, 1948, ch. 496, § 2(a), (d), 62 Stat. 476.

### § 9. Repealed. June 17, 1948, ch. 496, § 2(b), 62 Stat. 476

Section, R.S. § 451; act June 19, 1878, ch. 329, 20 Stat. 183, provided for an assistant to sign land patents. See section 15 of this title.

### § 10. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 645

Section, acts May 24, 1922, ch. 199, 42 Stat. 555; Jan. 24, 1923, ch. 42, 42 Stat. 1177, related to depositary acting for commissioner as receiver of public moneys.

### § 11. Restriction on officers, clerks, and employees

The officers, clerks, and employees in the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land; and any person who violates this section shall forthwith be removed from his office.

(R.S. § 452; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 452 derived from acts Apr. 25, 1812, ch. 68, § 10, 2 Stat. 717; July 4, 1836, ch. 352, § 14, 5 Stat. 112.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 12. Seal, books, and records

The Secretary of the Interior or such officer as he may designate shall retain the charge of the seal adopted for the Bureau of Land Management which may continue to be used, and of the records, books, papers, and other property appertaining to the Bureau of Land Management.

(R.S. § 454; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 454 derived from act Apr. 25, 1812, ch. 68, §§ 4, 5, 2 Stat. 717.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg.

Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 13. Original papers on file as evidence

Whenever the officer, as the Secretary of the Interior may designate, of any United States land office shall be served with a subpoena duces tecum or other valid legal process requiring him to produce, in any United States court or in any court of record of any State, the original application for entry of public lands or the final proof of residence and cultivation or any other original papers on file in the Bureau of Land Management of the United States on which a patent to land has been issued or which furnish the basis for such patent, it shall be the duty of such officer to at once notify the Secretary of the Interior, or such officer as he may designate, of the service of such process, specifying the particular papers he is required to produce, and upon receipt of such notice from any such officer of a United States land office the Secretary or such officer designated by him shall at once transmit to the officer of such land office the original papers specified in such notice, and which such officer is required to produce, and to attach to such papers a certificate, under seal of his office, properly authenticating them as the original papers upon which patent was issued; and such papers so authenticated shall be received in evidence in all courts of the United States and in the several State courts of the States of the Union: *Provided*, That the Secretary of the Interior shall make rules and regulations to secure the return of such documents to the Bureau of Land Management, after use in evidence, without cost to the United States.

(Apr. 19, 1904, ch. 1398, 33 Stat. 186; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to Commissioner of General Land Office and registers of United States Land Offices changed to Secretary of the Interior or such officer as he may designate and ''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 14. Returns relative to lands

All returns relative to the public lands shall be made to the Secretary of the Interior or such officer as he may designate.

(R.S. § 456; July 31, 1894, ch. 174, § 7, 28 Stat. 207; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 456 derived from act Apr. 25, 1812, ch. 68, § 9, 2 Stat. 717.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 15. Issuance and signing of patents by Secretary of the Interior; delegation of authority; notice

All patents for public lands shall be issued and signed by the Secretary of the Interior in the name of the United States: *Provided*, That the Secretary may delegate his authority under this section to officers or employees of the Department of the Interior, but notice of any such delegation shall be given by publication in the Federal Register.

(June 17, 1948, ch. 496, § 1, 62 Stat. 476.)

PRIOR PROVISIONS

A prior section 15, R.S. § 458; 1940 Reorg. Plan No. III, § 4 eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to issuance of patents, prior to repeal by section 2(c) of act June 17, 1948.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 16. Engrossing and recording patents

The engrossing and recording of patents for public lands may be done by means of typewriters or other machines, under regulations to be made by the Secretary of the Interior and approved by the President.

(Mar. 2, 1895, ch. 177, § 3, 28 Stat. 807.)

### § 17. Plats of land surveyed

The Secretary of the Interior or such officer as he may designate shall, when required by the President or either House of Congress, make a plat of any land surveyed under the authority of the United States, and give such information respecting the public lands and concerning the business of the Bureau of Land Management as shall be directed.

(R.S. § 455; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 455 derived from act Apr. 25, 1812, ch. 68, § 6, 2 Stat. 717.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' and ''Bureau of Land Management'' for ''his office'' on authority of section 403 of Reorg.

Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 18. Copies of papers filed

Whenever any person claiming to be interested in or entitled to land, under any grant or patent from the United States, applies to the Department of the Interior for copies of papers filed and remaining therein, in anywise affecting the title to such land, it shall be the duty of the Secretary of the Interior to cause such copies to be made out and authenticated, under his hand and the seal of the Bureau of Land Management, for the person so applying.

(R.S. § 460; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 460 derived from acts Jan. 23, 1823, ch. 6, 3 Stat. 721; July 4, 1836, ch. 352, § 7, 5 Stat. 111.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### §§ 19 to 21. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 19, R.S. § 2469, related to certified copies of records of the General Land Office.

Section 20, R.S. § 2470, related to exemplification of the records of the General Land Office as evidence.

Section 21, R.S. § 461; acts Apr. 2, 1888, ch. 54, 25 Stat. 76; Oct. 12, 1888, ch. 1098, 25 Stat. 557; May 29, 1908, ch. 220, § 15, 35 Stat. 469; June 5, 1920, ch. 235, § 1, 41 Stat. 908, related to fees for exemplifications.

For Department of the Interior record provisions and Government records and papers, see section 1460 et seq. of this title, and section 1733 of Title 28, Judiciary and Judicial Procedure.

### § 22. Repealed. July 30, 1947, ch. 354, § 2, 61 Stat. 522

Section, act June 5, 1920, ch. 235, 41 Stat. 908, related to cost of photolithographic copies of plats. See section 1460 of this title.

### § 23. Repealed. Pub. L. 86–649, title II, § 202(b), July 14, 1960, 74 Stat. 507

Section, act Feb. 14, 1931, ch. 187, 46 Stat. 1118, prescribed fees for depositions in hearings in Bureau of Land Management. See section 1371 of this title. Similar provisions were contained in the following prior appropriation acts:

Mar. 3, 1925, ch. 462, 43 Stat. 1145.
June 5, 1924, ch. 264, 43 Stat. 395.
Jan. 24, 1923, ch. 42, 42 Stat. 1179.
May 24, 1922, ch. 199, 42 Stat. 558.
Mar. 3, 1915, ch. 75, 38 Stat. 855.

### § 24. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 646, 647

Section, acts May 10, 1926, ch. 277, 44 Stat. 456; Jan 12, 1927, ch. 27, 44 Stat. 938; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized payment of mileage for automobile travel.

### §§ 25 to 25b. Repealed. Oct. 25, 1951, ch. 562, § 1(25), 65 Stat. 639

Section 25, act May 28, 1926, ch. 415, § 1, 44 Stat. 672, related to transfer of records of United States land office to any State upon closing of last United States land office in that State.

Section 25a, act May 28, 1926, ch. 415, § 2, 44 Stat. 673, related to transfer of field notes and maps of United States land office to any State upon closing of last United States land office in that State.

Section 25b, act May 28, 1926, ch. 415, § 3, 44 Stat. 673, related to requirement that State provide by law for preservation and access of records, field notes, and maps.

See section 3301 et seq. of Title 44, Public Printing and Documents.

## CHAPTER 2—UNITED STATES GEOLOGICAL SURVEY


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## § 31. Director of United States Geological Survey

### (a) Establishment of office; appointment and duties; examination of geological structure, mineral resources, and products of national domain; prohibitions in respect to lands and surveys

The Director of the United States Geological Survey, which office is established, under the Interior Department, shall be appointed by the President by and with the advice and consent of the Senate. This officer shall have the direction of the United States Geological Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain. The Director and members of the United States Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey, and shall execute no surveys or examinations for private parties or corporations.

### (b) Examination of geological structure, mineral resources, and products outside national domain

The authority of the Secretary of the Interior, exercised through the United States Geological Survey of the Department of the Interior, to examine the geological structure, mineral resources, and products of the national domain, is expanded to authorize such examinations outside the national domain where determined by the Secretary to be in the national interest.

(Mar. 3, 1879, ch. 182, 20 Stat. 394; Pub. L. 87–626, §§1, 2, Sept. 5, 1962, 76 Stat. 427; Pub. L. 93–608, §2(6), Jan. 2, 1975, 88 Stat. 1971; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 104–66, title I, §1081(e), Dec. 21, 1995, 109 Stat. 721.)

CODIFICATION

Subsec. (a) of this section is from act Mar. 3, 1879. Subsecs. (b) and (c) of this section are sections 1 and 2, respectively, of Pub. L. 87–626.

Provisions of subsec. (a) of this section which limited the salary of the Director of the Geological Survey to $6,000 a year were omitted as obsolete. See section 5316 of Title 5, Government Organization and Employees.

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–66 struck out subsec. (c) which read as follows: ''The Secretary of the Interior shall report to the Speaker of the House of Representatives and the President of the Senate on January 31 of each year on all actions taken pursuant to subsection (b) of this section during the year ending on the December 31 immediately preceding the reporting date and on the results of such actions.''

1975—Subsec. (c). Pub. L. 93–608 substituted requirement of an annual report for requirement of a semiannual report.

CHANGE OF NAME

Pub. L. 102–285, §10(a), May 18, 1992, 106 Stat. 171, provided that: ''The Geological Survey established by the Act of March 3, 1879 (43 U.S.C. 31(a)), is designated as and shall hereafter [on and after May 18, 1992] be known as the United States Geological Survey.''

''United States Geological Survey'' substituted for ''Geological Survey'' in subsecs. (a) and (b) pursuant to provision of title I of Pub. L. 102–154, which provided: ''That the Geological Survey (43 U.S.C. 31(a)) shall hereafter [on and after Nov. 13, 1991] be designated the United States Geological Survey.''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION

Pub. L. 100–441, Sept. 22, 1988, 102 Stat. 1760, provided: ''That this Act may be cited as the 'Continental Scientific Drilling and Exploration Act'.

''SEC. 2. PURPOSES.

''The purpose of this Act is to—

''(1) implement section 323 of the joint resolution entitled 'Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes', approved October 12, 1984 (Public Law 98–473; 98 Stat. 1875) [set out below] which supports and encourages the development of a national Continental Scientific Drilling Program;

''(2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;

''(3) advance basic earth sciences research and technological development;

''(4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and

''(5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

''SEC. 3. FINDINGS.

''Congress finds that—

''(1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, an understanding of the processes and structures in the earth's crust is essential to the well being of the United States;

''(2) there is a need for developing long-range plans for a United States Continental Scientific Drilling Program; and

''(3) the Continental Scientific Drilling Program would enhance—

''(A) understanding of the crustal evolution of the earth and the mountain building processes;

''(B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;

''(C) understanding of the development and utilization of geothermal and other energy sources and the formation of and occurrence of mineral deposits;

''(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

''(E) understanding and definition of the size, source, and more effective use of aquifers and other water resources; and

''(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

''SEC. 4. IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM.

''The Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the policies of section 323 of the joint resolution entitled 'Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes', approved October 12, 1984 (Public Law 98–473; 98 Stat. 1875) [set out below] by—

''(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

''(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such program;

''(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

''(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency;

''(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act [Sept. 22, 1988] a report describing—

''(A) long and short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

''(B) projected schedules of desirable scientific and engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

''(C) the levels of resources and funding for fiscal year 1989 that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B);

''(D) the scientific, economic, technological, and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

''(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

''(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

''(i) any other governmental agency;

''(ii) any academic institution;

''(iii) any organization in the private sector; and

''(iv) any governmental or other entity in the international community;

''(G) a plan to develop beneficial cooperative relationships among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and

''(H) any other information or recommendations that the Interagency Coordinating Group deems appropriate; and

''(6) submitting to the Congress annually, beginning one year after the submission of a report under paragraph (5), a report describing the levels of resources and funding that would be required by each participating Federal agency for the next fiscal year to carry out events pursuant to paragraph (5)(A) and (B).''

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under section 4(6) of Pub. L. 100–441, set out above, is listed as the 10th item on page 149), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.]

Pub. L. 98–473, title I, § 101(c) [title III, § 323], Oct. 12, 1984, 98 Stat. 1837, 1875, provided that: ''It is the sense of the Congress that the Continental Scientific Drilling Program is an important national scientific endeavor, benefiting the commerce of the Nation, which should be vigorously pursued by Government and the private sector. The Continental Scientific Drilling Program is an important national scientific endeavor that is vital to the understanding of the geologic evolution of the Earth and the economic value of its resources; the most effective and efficient means of realizing the fullest potential in the Continental Scientific Drilling Program is through a cooperative effort by the Department of Energy, the National Science Foundation, and the United States Geological Survey; many important commercial and scientific advances may result from the Continental Scientific Drilling Program; and many foreign nations are engaged in a comparable deep drilling program, and cooperation and coordination would be beneficial to United States efforts. It is the sense of the Congress that—

''(1) the Continental Scientific Drilling Program is an important national scientific endeavor by the United States which should be enthusiastically implemented through a joint cooperative effort among the United States Department of Energy, the National Science Foundation, and the United States Geological Survey;

''(2) the private sector should be encouraged to support the Continental Scientific Drilling Program and the participating agencies should solicit appropriate private sector participation in such program; and

''(3) the United States Government should cooperate to the extent practicable with the international community in developing this important scientific and technical activity.''

## § 31a. Findings and purpose

### (a) Findings

The Congress finds and declares that—

(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;

(2) geologic maps are the primary data base for virtually all applied and basic earth-science investigations, including—

(A) exploration for and development of mineral, energy, and water resources;

(B) screening and characterizing sites for toxic and nuclear waste disposal;

(C) land use evaluation and planning for homeland and environmental protection;

(D) earthquake hazards reduction;

(E) identifying volcanic hazards;

(F) design and construction of infrastructure requirements such as utility lifelines, transportation corridors, and surface-water impoundments;

(G) reducing losses from landslides and other ground failures;

(H) mitigating effects of coastal and stream erosion;

(I) siting of critical facilities;

(J) recreation and public awareness; and

(K) basic earth-science research;

(3) Federal agencies, State and local governments, private industry, and the general public depend on the information provided by geologic maps to determine the extent of potential environmental damage before embarking on projects that could lead to preventable, costly environmental problems or litigation;

(4) the combined capabilities of State, Federal, and academic groups to provide geologic mapping are not sufficient to meet the present and future needs of the United States for national security, environmental protection, and energy self-sufficiency of the Nation;

(5) States are willing to contribute 50 percent of the funding necessary to complete the mapping of the geology within the State;

(6) the lack of proper geologic maps has led to the poor design of such structures as dams and waste-disposal facilities;

(7) geologic maps have proven indispensable in the search for needed fossil-fuel and mineral resources;

(8) geologic map information is required for the sustainable and balanced development of natural resources of all types, including energy, minerals, land, water, and biological resources;

(9) advances in digital technology and geographical information system science have made geologic map databases increasingly available as decision support tools for land and resource management; and

(10) a comprehensive nationwide program of geologic mapping of surficial and bedrock deposits is required in order to systematically build the Nation's geologic-map data base at a pace that responds to increasing demand.

**(b) Purpose**

The purpose of sections 31a to 31h of this title is to expedite the production of a geologic-map data base for the Nation, to be located within the United States Geological Survey, which can be applied to land-use management, assessment, and utilization, conservation of natural resources, groundwater management, and environmental protection and management.

(Pub. L. 102–285, § 2, May 18, 1992, 106 Stat. 166; Pub. L. 106–148, § 2, Dec. 9, 1999, 113 Stat. 1719; Pub. L. 111–11, title XI, § 11001(a), (b), Mar. 30, 2009, 123 Stat. 1414.)

REFERENCES IN TEXT

Sections 31a to 31h of this title, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 102–285, known as the National Geologic Mapping Act of 1992, which is classified principally to sections 31a to 31h of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–11, § 11001(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''during the past 2 decades, the production of geologic maps has been drastically curtailed;''.

Subsec. (a)(2)(C). Pub. L. 111–11, § 11001(a)(2)(A), inserted ''homeland and'' after ''planning for''.

Subsec. (a)(2)(E). Pub. L. 111–11, § 11001(a)(2)(B), substituted ''identifying'' for ''predicting''.

Subsec. (a)(2)(J), (K). Pub. L. 111–11, § 11001(a)(2)(C)–(E), added subpar. (J) and redesignated former subpar. (J) as (K).

Subsec. (a)(9). Pub. L. 111–11, § 11001(a)(3), substituted ''available'' for ''important''.

Subsec. (b). Pub. L. 111–11, § 11001(b), inserted ''and management'' before period at end.

1999—Subsec. (a)(8) to (10). Pub. L. 106–148 added pars. (8) and (9) and redesignated former par. (8) as (10) and inserted ''of surficial and bedrock deposits'' after ''geologic mapping''.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–148, § 1, Dec. 9, 1999, 113 Stat. 1719, provided that: ''This Act [enacting sections 31e, 31g and 31h of this title, amending sections 31a to 31d and 31f of this title, and repealing former sections 31e, 31g, and 31h of this title] may be cited as the 'National Geologic Mapping Reauthorization Act of 1999'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–36, § 1, Aug. 5, 1997, 111 Stat. 1107, provided that: ''This Act [amending sections 31b to 31h of this title and enacting provisions set out as a note under this section] may be cited as the 'National Geologic Mapping Reauthorization Act of 1997'.''

SHORT TITLE

Section 1 of Pub. L. 102–285 provided that: ''This Act [enacting this section and sections 31b to 31h of this title, amending sections 1457, 1457a, and 1782 of this title, sections 450ii–3, 665, 1133, and 3151 of Title 16, Conservation, section 262k of Title 22, Foreign Relations and Intercourse, section 1677 of Title 25, Indians, sections 1, 1a, 2, 3, 4, 4c, 4d, 5, 6, 7, 8, 411, 412, 804, 812, 871, 878, 1224, 1229, 1232, 1311, 1315, and 1604 of Title 30, Mineral Lands and Mining, and sections 5814 and 6505 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 31 of this title and section 1 of Title 30, and amending provisions set out as a note under section 1231 of Title 30] may be cited as the 'National Geologic Mapping Act of 1992'.''

FINDINGS

Pub. L. 105–36, § 2, Aug. 5, 1997, 111 Stat. 1107, provided that: ''Congress finds that—

''(1) in enacting the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), Congress found, among other things, that—

''(A) during the 2 decades preceding enactment of that Act, the production of geologic maps had been drastically curtailed;

''(B) geologic maps are the primary data base for virtually all applied and basic earth-science investigations;

''(C) Federal agencies, State and local governments, private industry, and the general public depend on the information provided by geologic maps to determine the extent of potential environmental damage before embarking on projects that could lead to preventable, costly environmental problems or litigation;

''(D) the lack of proper geologic maps has led to the poor design of such structures as dams and waste-disposal facilities;

''(E) geologic maps have proven indispensable in the search for needed fossil fuel and mineral resources; and

''(F) a comprehensive nationwide program of geologic mapping is required in order to systematically build the Nation's geologic-map data base at a pace that responds to increasing demand;

''(2) the geologic mapping program called for by that Act has not been fully implemented; and

''(3) it is time for this important program to be fully implemented.''

## § 31b. Definitions

In sections 31a to 31h of this title:

**(1) Advisory committee**

The term ''advisory committee'' means the advisory committee established under section 31d of this title.

**(2) Association**

The term ''Association'' means the Association of American State Geologists.

**(3) Director**

The term ''Director'' means the Director of the United States Geological Survey.

**(4) Education component**

The term ''education component'' means the education component of the geologic mapping program described in section 31e(d)(3)[1] of this title.

[1] So in original. Probably should be section ''31c(d)(3)''.

**(5) Federal component**

The term ''Federal component'' means the Federal component of the geologic mapping program described in section 31e(d)(1)[2] of this title.

**(6) Geologic mapping program**

The term ''geologic mapping program'' means the National Cooperative Geologic Mapping Program established by section 31c(a) of this title.

**(7) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

**(8) State**

The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands.

**(9) State component**

The term ''State component'' means the State component of the geologic mapping program described in section 31e(d)(2)[3] of this title.

**(10) Survey**

The term ''Survey'' means the United States Geological Survey.

(Pub. L. 102–285, §3, May 18, 1992, 106 Stat. 167; Pub. L. 105–36, §3(a), Aug. 5, 1997, 111 Stat. 1107; Pub. L. 106–148, §3, Dec. 9, 1999, 113 Stat. 1719.)

REFERENCES IN TEXT

Sections 31a to 31h of this title, referred to in text, was in the original ''this Act'', meaning Pub. L. 102–285, known as the National Geologic Mapping Act of 1992, which is classified principally to sections 31a to 31h of this title. For complete classification of this Act to the Code, see Short Title note set out under section 31a of this title and Tables.

AMENDMENTS

1999—Pars. (4) to (10). Pub. L. 106–148 added pars. (4), (5), and (9) and redesignated former pars. (4), (5), (6), and (7) as (6), (7), (8), and (10), respectively.

1997—Pub. L. 105–36, §3(a)(1), substituted ''In sections 31a to 31h of this title:'' for ''As used in sections 31a to 31h of this title:'' in introductory provisions.

Par. (1). Pub. L. 105–36, §3(a)(5), inserted heading.

Par. (2). Pub. L. 105–36, §3(a)(2), (3), added par. (2). Former par. (2) redesignated (3).

Pars. (3) to (5). Pub. L. 105–36, §3(a)(2), (5), redesignated pars. (2) to (4) as (3) to (5), respectively, and inserted headings. Par. (5) redesignated (7).

Par. (6). Pub. L. 105–36, §3(a)(4), added par. (6).

Par. (7). Pub. L. 105–36, §3(a)(2), (5), redesignated par. (5) as (7) and inserted heading.

## §31c. Geologic mapping program

**(a) Establishment**

**(1) In general**

There is established a national cooperative geologic mapping program between the United States Geological Survey and the State geological surveys, acting through the Association.

**(2) Design, development, and administration**

The cooperative geologic mapping program shall be—

(A) designed and administered to achieve the objectives set forth in subsection (c) of this section;

(B) developed in consultation with the advisory committee; and

(C) administered through the Survey.

**(b) Responsibilities of the Survey**

**(1) Lead agency**

The Survey shall be the lead Federal agency responsible for planning, developing national priorities and standards for, coordinating, and managing the geologic mapping program. In carrying out this paragraph, the Secretary, acting through the Director, shall—

(A) develop a 5-year strategic plan for the geologic mapping program in accordance with section 31e of this title, which plan shall be submitted to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than 1 year after March 30, 2009;

(B) appoint, with the advice and consultation of the Association, the advisory committee not later than 1 year after March 30, 2009, in accordance with section 31d of this title; and

(C) submit biennially a report to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the House of Representatives identifying—

(i) how the Survey and the Association are coordinating the development and implementation of the geologic mapping program;

(ii) how the Survey and the Association establish goals, mapping priorities, and target dates for implementation of the geologic mapping program; and

(iii) how long-term staffing plans for the various components of the geologic mapping program affect successful implementation of the geologic mapping program.

**(2) Responsibilities of the Secretary**

In addition to paragraph (1), the Secretary, acting through the Director, shall be responsible for developing, as soon as practicable—

(A) in cooperation with the Association, other Federal and State agencies, public and private sector organizations and academia, the geologic-map data base; and

(B) maps and mapping techniques which achieve the objectives specified in subsection (c) of this section.

**(c) Program objectives**

The objectives of the geologic mapping program shall include—

(1) determining the Nation's geologic framework through systematic development of geologic maps at scales appropriate to the geologic setting and the perceived applications, such maps to be contributed to the national geologic map data base;

(2) development of a complementary national geochronologic and paleontologic data

[2] So in original. Probably should be section ''31c(d)(1)''.

[3] So in original. Probably should be section ''31c(d)(2)''.

base that provides value-added descriptive and interpretative information to the geologic-map data base;

(3) application of cost-effective mapping techniques that assemble, produce, translate and disseminate geologic-map information and that render such information of greater application and benefit to the public; and

(4) development of public awareness of the role and application of geologic-map information to the resolution of national issues of land use management.

**(d) Program components**

**(1) Federal component**

**(A) In general**

The geologic mapping program shall include a Federal geologic mapping component, the objective of which shall be to determine the geologic framework of areas determined to be vital to the economic, social, environmental, or scientific welfare of the United States.

**(B) Mapping priorities**

For the Federal component, mapping priorities—

(i) shall be described in the 5-year plan under section 31e of this title; and

(ii) shall be based on—

(I) national requirements for geologic map information in areas of multiple-issue need or areas of compelling single-issue need;

(II) national requirements for geologic map information in areas where mapping is required to solve critical earth science problems; and

(III) the needs of land management agencies of the Department of the Interior.

**(C) Interdisciplinary studies**

**(i) In general**

The Federal component shall include interdisciplinary studies that add value to geologic mapping.

**(ii) Representative categories**

Interdisciplinary studies under clause (i) may include—

(I) establishment of a national geologic map database under section 31f of this title;

(II) studies that lead to the implementation of cost-effective digital methods for the acquisition, compilation, analysis, cartographic production, and dissemination of geologic map information;

(III) paleontologic, geochrono-logic, and isotopic investigations that provide information critical to understanding the age and history of geologic map units;

(IV) geophysical investigations that assist in delineating and mapping the physical characteristics and 3-dimensional distribution of geologic materials and geologic structures; and

(V) geochemical investigations and analytical operations that characterize the composition of geologic map units.

**(iii) Use of results**

The results of investigations under clause (ii) shall be contributed to national databases.

**(2) State component**

**(A) In general**

The geologic mapping program shall include a State geologic mapping component, the objective of which shall be to establish the geologic framework of areas determined to be vital to the economic, social, environmental, or scientific welfare of individual States.

**(B) Mapping priorities**

For the State component, mapping priorities—

(i) shall be determined by State panels representing a broad range of users of geologic maps; and

(ii) shall be based on—

(I) State requirements for geologic map information in areas of multiple-issue need or areas of compelling single-issue need; and

(II) State requirements for geologic map information in areas where mapping is required to solve critical earth science problems.

**(C) Integration of Federal and State priorities**

A national panel including representatives of the Survey shall integrate the State mapping priorities under this paragraph with the Federal mapping priorities under paragraph (1).

**(D) Use of funds**

The Survey and recipients of grants under the State component shall not use more than 15.25 percent of the Federal funds made available under the State component for any fiscal year to pay indirect, servicing, or program management charges.

**(E) Federal share**

The Federal share of the cost of activities under the State component for any fiscal year shall not exceed 50 percent.

**(3) Education component**

**(A) In general**

The geologic mapping program shall include a geologic mapping education component for the training of geologic mappers, the objectives of which shall be—

(i) to provide for broad education in geologic mapping and field analysis through support of field studies; and

(ii) to develop academic programs that teach students of earth science the fundamental principles of geologic mapping and field analysis.

**(B) Investigations**

The education component may include the conduct of investigations, which—

(i) shall be integrated with the Federal component and the State component; and

(ii) shall respond to mapping priorities identified for the Federal component and the State component.

**(C) Use of funds**

The Survey and recipients of grants under the education component shall not use more than 15.25 percent of the Federal funds made available under the education component for any fiscal year to pay indirect, servicing, or program management charges.

**(D) Federal share**

The Federal share of the cost of activities under the education component for any fiscal year shall not exceed 50 percent.

(Pub. L. 102–285, §4, May 18, 1992, 106 Stat. 167; Pub. L. 103–437, §16(a)(1), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 105–36, §3(b), Aug. 5, 1997, 111 Stat. 1108; Pub. L. 106–148, §4, Dec. 9, 1999, 113 Stat. 1720; Pub. L. 111–11, title XI, §11001(c)–(e), Mar. 30, 2009, 123 Stat. 1414, 1415.)

AMENDMENTS

2009—Subsec. (b)(1)(A). Pub. L. 111–11, §11001(c)(1), substituted ''not later than 1 year after March 30, 2009;'' for ''not later than 1 year after December 9, 1999;''.

Subsec. (b)(1)(B). Pub. L. 111–11, §11001(c)(2), substituted ''not later than 1 year after March 30, 2009, in accordance'' for ''not later than 1 year after December 9, 1999, in accordance''.

Subsec. (b)(1)(C). Pub. L. 111–11, §11001(c)(3), substituted ''submit biennially'' for ''not later than 3 years after December 9, 1999, and biennially thereafter, submit'' in introductory provisions.

Subsec. (c)(2). Pub. L. 111–11, §11001(d), struck out ''geophysical-map data base, geochemical-map data base, and a'' after ''national'' and substituted ''provides'' for ''provide''.

Subsec. (d)(1)(B)(ii)(III). Pub. L. 111–11, §11001(e), added subcl. (III).

1999—Subsec. (b)(1). Pub. L. 106–148, §4(1)(A), substituted ''national priorities and standards for'' for ''priorities'' in first sentence.

Subsec. (b)(1)(A). Pub. L. 106–148, §4(1)(B), substituted ''develop a 5-year strategic plan for the geologic mapping program'' for ''develop a geologic mapping program implementation plan'' and ''not later than 1 year after December 9, 1999'' for ''within 300 days after August 5, 1997''.

Subsec. (b)(1)(B). Pub. L. 106–148, §4(1)(C), substituted ''not later than 1 year after December 9, 1999,'' for ''within 90 days after August 5, 1997,''.

Subsec. (b)(1)(C). Pub. L. 106–148, §4(1)(D)(i), substituted ''not later than 3 years after December 9, 1999, and biennially thereafter'' for ''within 210 days after August 5, 1997'' in introductory provisions.

Subsec. (b)(1)(C)(i). Pub. L. 106–148, §4(1)(D)(ii), substituted ''are coordinating'' for ''will coordinate''.

Subsec. (b)(1)(C)(ii). Pub. L. 106–148, §4(1)(D)(iii), substituted ''establish'' for ''will establish''.

Subsec. (b)(1)(C)(iii). Pub. L. 106–148, §4(1)(D)(iv), substituted ''affect'' for ''will lead to''.

Subsec. (d). Pub. L. 106–148, §4(2), added subsec. (d) and struck out former subsec. (d) which set out the Federal, support, State, and education components of the geological mapping program.

1997—Subsec. (a). Pub. L. 105–36, §3(b)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''There is established in the United States Geological Survey a National Cooperative Geologic Mapping Program. The geologic mapping program shall be developed in consultation with the advisory committee and shall be designed and administered to achieve the objectives set forth in subsection (c) of this section.''

Subsec. (b). Pub. L. 105–36, §3(b)(2)(A), (D), substituted ''the Survey'' for ''USGS'' in heading and realigned text margins.

Subsec. (b)(1). Pub. L. 105–36, §3(b)(2)(B)(i), (ii), inserted heading and realigned margins.

Subsec. (b)(1)(A). Pub. L. 105–36, §3(b)(2)(B)(iii), substituted ''Committee on Resources'' for ''Committee on Natural Resources'' and ''August 5, 1997'' for ''May 18, 1992''.

Subsec. (b)(1)(B). Pub. L. 105–36, §3(b)(2)(B)(iv), substituted ''Association'' for ''State geological surveys'' and ''August 5, 1997'' for ''May 18, 1992''.

Subsec. (b)(1)(C). Pub. L. 105–36, §3(b)(2)(B)(v)(I), (II), in introductory provisions, substituted ''August 5, 1997'' for ''May 18, 1992'' and ''Committee on Resources'' for ''Committee on Natural Resources''.

Subsec. (b)(1)(C)(i). Pub. L. 105–36, §3(b)(2)(B)(v)(III), inserted ''and the Association'' after ''the Survey''.

Subsec. (b)(1)(C)(ii). Pub. L. 105–36, §3(b)(2)(B)(v)(III), (IV), inserted ''and the Association'' after ''the Survey'' and ''and'' after semicolon at end.

Subsec. (b)(1)(C)(iii), (iv). Pub. L. 105–36, §3(b)(2)(B)(v)(V), substituted period for ''; and'' at end of cl. (iii) and struck out cl. (iv) which read as follows: ''the degree to which geologic mapping activities traditionally funded by the Survey, including the use of commercially available aerial photography, geodesy, professional land surveying, photogrammetric mapping, cartography, photographic processing, and related services, can be contracted to professional private mapping firms.''

Subsec. (b)(2). Pub. L. 105–36, §3(b)(2)(C)(i), inserted heading.

Subsec. (b)(2)(A). Pub. L. 105–36, §3(b)(2)(C)(ii), substituted ''Association'' for ''State geological surveys''.

Subsec. (c)(2). Pub. L. 105–36, §3(b)(3)(A), substituted ''interpretative information'' for ''interpretive information''.

Subsec. (c)(4). Pub. L. 105–36, §3(b)(3)(B), substituted ''public awareness of'' for ''public awareness for''.

Subsec. (d)(1). Pub. L. 105–36, §3(b)(4)(A), inserted heading.

Subsec. (d)(2). Pub. L. 105–36, §3(b)(4)(B)(i), inserted heading.

Subsec. (d)(2)(D). Pub. L. 105–36, §3(b)(4)(B)(ii), added subpar. (D) and struck out former subpar. (D) which read as follows: ''geochronologic and isotopic investigations that (i) provide radiometric age dates for geologic-map units and (ii) fingerprint the geothermometry, geobarometry, and alteration history of geologic-map units, which investigations shall be contributed to a national geochronologic data base;''.

Subsec. (d)(3). Pub. L. 105–36, §3(b)(4)(C), inserted heading.

Subsec. (d)(4). Pub. L. 105–36, §3(b)(4)(D), added par. (4) and struck out former par. (4) which read as follows: ''A geologic mapping education component, whose objective shall be—

''(A) to develop the academic programs that teach earth-science students the fundamental principles of geologic mapping and field analysis; and

''(B) to provide for broad education in geologic mapping and field analysis through support of field teaching institutes.

Investigations conducted under the geologic mapping education component shall be integrated with the other mapping components of the geologic mapping program, and shall respond to priorities identified for those components.''

1994—Subsec. (b)(1)(A), (C). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## §31d. Advisory committee

**(a) Establishment**

**(1) In general**

There shall be established a 11-member geologic mapping advisory committee to advise

the Director on planning and implementation of the geologic mapping program.

**(2) Members ex officio**

Federal agency members shall include the Administrator of the Environmental Protection Agency or a designee, the Secretary of the Interior or a designee from a land management agency of the Department of the Interior, the Secretary of Energy or a designee, and the Secretary of Agriculture or a designee.

**(3) Appointed members**

In consultation with the Association, the Secretary shall appoint to the advisory committee two representatives from the Survey (including the Associate Director for Geology, as Chair), two representatives from the State geological surveys, one representative from academia, and 2 representatives from the private sector.

**(b) Duties**

The advisory committee shall—

(1) review and update the 5-year plan prepared by the Director pursuant to section 31e of this title;

(2) review the scientific progress of the geologic mapping program;

(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and

(4) submit an annual report to the Secretary that evaluates the progress of the Federal, State, and university mapping activities and evaluates the progress made toward fulfilling the purposes of sections 31c through 31f of this title.

(Pub. L. 102–285, § 5, May 18, 1992, 106 Stat. 169; Pub. L. 105–36, § 3(c), Aug. 5, 1997, 111 Stat. 1110; Pub. L. 106–148, § 5, Dec. 9, 1999, 113 Stat. 1722; Pub. L. 111–11, title XI, § 11001(f), Mar. 30, 2009, 123 Stat. 1415.)

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–11, § 11001(f)(3), substituted ''11-member'' for ''10-member''.

Subsec. (a)(2). Pub. L. 111–11, § 11001(f)(1)(A), inserted ''the Secretary of the Interior or a designee from a land management agency of the Department of the Interior,'' after ''Administrator of the Environmental Protection Agency or a designee,'', inserted ''and'' after ''Energy or a designee,'', and struck out '', and the Assistant to the President for Science and Technology or a designee'' before period at end.

Subsec. (a)(3). Pub. L. 111–11, § 11001(f)(1)(B), substituted ''In consultation'' for ''Not later than 1 year after December 9, 1999, in consultation'', ''Associate Director for Geology, as Chair'' for ''Chief Geologist, as Chairman'', and ''2 representatives from the private sector'' for ''one representative from the private sector''.

Subsec. (b)(3), (4). Pub. L. 111–11, § 11001(f)(2), added par. (3) and redesignated former par. (3) as (4).

1999—Subsec. (a)(3). Pub. L. 106–148, § 5(1), substituted ''1 year after December 9, 1999,'' for ''90 days after August 5, 1997,''.

Subsec. (b)(1). Pub. L. 106–148, § 5(2)(A), substituted ''update the 5-year plan'' for ''critique the draft implementation plan''.

Subsec. (b)(3). Pub. L. 106–148, § 5(2)(B), substituted ''sections 31c through 31f of this title'' for ''sections 31a to 31h of this title''.

1997—Subsec. (a). Pub. L. 105–36, § 3(c)(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: ''There shall be established a sixteen member geologic mapping advisory committee to advise the Director on planning and implementation of the geologic mapping program. The President shall appoint one representative each from the Environmental Protection Agency, the Department of Energy, the Department of Agriculture, and the Office of Science and Technology Policy. Within 90 days and with the advice and consultation of the State Geological Surveys, the Secretary shall appoint to the advisory committee 2 representatives from the Survey (including the Chief Geologist, as Chairman), 4 representatives from the State geological surveys, 3 representatives from academia, and 3 representatives from the private sector.''

Subsec. (b)(3). Pub. L. 105–36, § 3(c)(2), substituted ''Federal, State, and university mapping activities'' for ''Federal and State mapping activities''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

## § 31e. Geologic mapping program 5-year plan

**(a) In general**

The Secretary, acting through the Director, shall, with the advice and review of the advisory committee, prepare a 5-year plan for the geologic mapping program.

**(b) Requirements**

The 5-year plan shall identify—

(1) overall priorities for the geologic mapping program; and

(2) implementation of the overall management structure and operation of the geologic mapping program, including—

(A) the role of the Survey in the capacity of overall management lead, including the responsibility for developing the national geologic mapping program that meets Federal needs while fostering State needs;

(B) the responsibilities of the State geological surveys, with emphasis on mechanisms that incorporate the needs, missions, capabilities, and requirements of the State geological surveys, into the nationwide geologic mapping program;

(C) mechanisms for identifying short- and long-term priorities for each component of the geologic mapping program, including—

(i) for the Federal component, a priority-setting mechanism that responds to—

(I) Federal mission requirements for geologic map information;

(II) critical scientific problems that require geologic maps for their resolution; and

(III) shared Federal and State needs for geologic maps, in which joint Federal-State geologic mapping projects are in the national interest;

(ii) for the State component, a priority-setting mechanism that responds to—

(I) specific intrastate needs for geologic map information; and

(II) interstate needs shared by adjacent States that have common requirements; and

(iii) for the education component, a priority-setting mechanism that responds to requirements for geologic map information that are dictated by Federal and State mission requirements;

(D) a mechanism for adopting scientific and technical mapping standards for preparing and publishing general- and special-purpose geologic maps to—

(i) ensure uniformity of cartographic and scientific conventions; and

(ii) provide a basis for assessing the comparability and quality of map products; and

(E) a mechanism for monitoring the inventory of published and current mapping investigations nationwide to facilitate planning and information exchange and to avoid redundancy.

(Pub. L. 102–285, § 6, as added Pub. L. 106–148, § 6, Dec. 9, 1999, 113 Stat. 1722.)

PRIOR PROVISIONS

A prior section 31e, Pub. L. 102–285, § 6, May 18, 1992, 106 Stat. 170; Pub. L. 105–36, § 3(d), Aug. 5, 1997, 111 Stat. 1110, provided for the preparation of a geologic mapping program implementation plan, prior to repeal by Pub. L. 106–148, § 6, Dec. 9, 1999, 113 Stat. 1722.

### § 31f. National geologic map database

**(a) Establishment**

**(1) In general**

The Survey shall establish a national geologic-map database.

**(2) Function**

The database shall serve as a national catalog and archive, distributed through links to Federal and State geologic map holdings, that includes—

(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;

(B) the databases developed in connection with investigations under subclauses (III), (IV), and (V) of section 31c(d)(1)(C)(ii) of this title; and

(C) other maps and data that the Survey and the Association consider appropriate.

**(b) Standardization**

**(1) In general**

Geologic maps contributed to the national archives shall have format, symbols, and technical attributes that adhere to standards so that archival information can be accessed, exchanged, and compared efficiently and accurately, as required by Executive Order 12906 (59 Fed. Reg. 17,671 (1994)), which established the National Spatial Data Infrastructure.

**(2) Development of standards**

Entities that contribute geologic maps to the national archives shall develop the standards described in paragraph (1) in cooperation with the Federal Geographic Data Committee, which is charged with standards development and other data coordination activities as described in Office of Management and Budget revised Circular A–16.

(Pub. L. 102–285, § 7, May 18, 1992, 106 Stat. 171; Pub. L. 105–36, § 3(e), Aug. 5, 1997, 111 Stat. 1110; Pub. L. 106–148, § 7, Dec. 9, 1999, 113 Stat. 1723; Pub. L. 111–11, title XI, § 11001(g), Mar. 30, 2009, 123 Stat. 1415.)

REFERENCES IN TEXT

Executive Order 12906, referred to in subsec. (b)(1), is set out as a note under section 1457 of this title.

AMENDMENTS

2009—Subsec. (a)(1). Pub. L. 111–11, § 11001(g)(1), substituted ''geologic-map'' for ''geologic map''.

Subsec. (a)(2)(A). Pub. L. 111–11, § 11001(g)(2), added subpar. (A) and struck out former subpar. (A) which read as follows: ''all maps developed under the Federal component and the education component;''.

1999—Pub. L. 106–148 substituted ''geologic map database'' for ''geologic-map data base'' in section catchline, added subsec. (a), and struck out heading and text of former subsec. (a). Text read as follows: ''The Survey shall establish a national geologic-map data base. Such data base shall be a national archive that includes all maps developed pursuant to sections 31a to 31h of this title, the data bases developed pursuant to the investigations under sections 31c(d)(2)(C), (D), (E), and (F) of this title, and other maps and data as the Survey deems appropriate.''

1997—Subsec. (b). Pub. L. 105–36 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: ''Geologic maps contributed to the national archives should have standardized format, symbols, and technical attributes so that archival information can be assimilated, manipulated, accessed, exchanged, and compared efficiently and accurately.''

### § 31g. Biennial report

Not later than 3 years after March 30, 2009, and biennially thereafter, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that—

(1) describes the status of the national geologic mapping program;

(2) describes and evaluates the progress achieved during the preceding 2 years in developing the national geologic map database; and

(3) includes any recommendations that the Secretary may have for legislative or other action to achieve the purposes of sections 31c through 31f of this title.

(Pub. L. 102–285, § 8, as added Pub. L. 106–148, § 8, Dec. 9, 1999, 113 Stat. 1724; amended Pub. L. 111–11, title XI, § 11001(h), Mar. 30, 2009, 123 Stat. 1415.)

PRIOR PROVISIONS

A prior section 31g, Pub. L. 102–285, § 8, May 18, 1992, 106 Stat. 171; Pub. L. 103–437, § 16(a)(1), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 105–36, § 3(f), Aug. 5, 1997, 111 Stat. 1111; Pub. L. 105–362, title IX, § 902(b), Nov. 10, 1998, 112 Stat. 3291, directed the Secretary to submit a biennial report to Congress describing the status of the nationwide geologic mapping program and evaluating the progress achieved during the preceding fiscal year in developing the national geologic-map data base, prior to repeal by Pub. L. 106–148, § 8, Dec. 9, 1999, 113 Stat. 1724.

AMENDMENTS

2009—Pub. L. 111–11 substituted ''Not later than 3 years after March 30, 2009, and biennially'' for ''Not later 3 years after December 9, 1999, and biennially''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 31h. Authorization of appropriations

**(a) In general**

There is authorized to be appropriated to carry out sections 31a to 31h of this title $64,000,000 for each of fiscal years 2009 through 2018.

**(b) Allocation of appropriations**

Of any amounts appropriated for any fiscal year in excess of the amount appropriated for fiscal year 2005—

(1) 50 percent shall be available for the State component; and

(2) 4 percent shall be available for the education component.

(Pub. L. 102–285, § 9, as added Pub. L. 106–148, § 9, Dec. 9, 1999, 113 Stat. 1724; amended Pub. L. 111–11, title XI, § 11001(i), Mar. 30, 2009, 123 Stat. 1416.)

REFERENCES IN TEXT

Sections 31a to 31h of this title, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 102–285, known as the National Geologic Mapping Act of 1992, which is classified principally to sections 31a to 31h of this title. For complete classification of this Act to the Code, see Short Title note set out under section 31a of this title and Tables.

PRIOR PROVISIONS

A prior section 31h, Pub. L. 102–285, § 9, May 18, 1992, 106 Stat. 171; Pub. L. 105–36, § 3(g), Aug. 5, 1997, 111 Stat. 1111, authorized appropriations for the national cooperative geologic mapping program, prior to repeal by Pub. L. 106–148, § 9, Dec. 9, 1999, 113 Stat. 1724.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–11, § 11001(i)(1), added subsec. (a) and struck out former subsec. (a) which appropriated funds to carry out sections 31a to 31h of this title for fiscal years 1999 to 2005.

Subsec. (b). Pub. L. 111–11, § 11001(i)(2)(A), substituted ''2005'' for ''2000'' in introductory provisions.

Subsec. (b)(1). Pub. L. 111–11, § 11001(i)(2)(B), substituted ''50'' for ''48''.

Subsec. (b)(2). Pub. L. 111–11, § 11001(i)(2)(C), which directed amendment of par. (2) ''by striking 2 and inserting '4' '', was executed by substituting ''4'' for ''2'', to reflect the probable intent of Congress.

### § 31i. Report on resource research activities

Once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey.

(Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–165; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

### § 31j. Biological research activity of Survey; review and report by National Academy of Sciences

Beginning in fiscal year 1998 and once every five years thereafter, the National Academy of Sciences shall review and report on the biological research activity of the Survey.

(Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–189.)

### § 32. Acting Director

The Secretary of the Interior may authorize one of the geologists to act as Director of the United States Geological Survey in the absence of that officer.

(July 31, 1894, ch. 174, § 1, 28 Stat. 197; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 33. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act June 16, 1880, ch. 235, 21 Stat. 274, authorized Secretary of War to detail officers of Ordnance Corps to serve with Geological Survey.

### § 34. Scientific employees

The scientific employees of the United States Geological Survey shall be selected by the Director, subject to the approval of the Secretary of the Interior exclusively for their qualifications as professional experts.

(July 7, 1884, ch. 332, 23 Stat. 212; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 35. Repealed. Pub. L. 87–304, § 9(a)(2), Sept. 26, 1961, 75 Stat. 664

Section, act June 30, 1906, ch. 3914, § 1, 34 Stat. 727, authorized scientific and other employees of the United States Geological Survey employed in the field to make assignments of pay, and that they be reimbursed for expenses incurred in the discharge of duty in the field and paid from personal funds. See section 5525 of Title 5, Government Organization and Employees.

### § 36. Purchase of books

The purchase of professional and scientific books and periodicals needed for statistical purposes by the scientific divisions of the United States Geological Survey is authorized to be

made and paid for out of appropriations made for the said Survey.

(June 28, 1902, ch. 1301, § 1, 32 Stat. 455.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 36a. Acquisition of scientific or technical books, maps, etc., for library

The Director of the United States Geological Survey, under the general supervision of the Secretary of the Interior, is authorized to acquire for the United States, by gift or devise, scientific or technical books, manuscripts, maps, and related materials, and to deposit the same in the library of the United States Geological Survey for reference and use as authorized by law.

(May 14, 1940, ch. 190, 54 Stat. 212; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 36b. Acquisition of lands or interests therein for use in gaging streams or underground water resources

The Secretary of the Interior may, on behalf of the United States and for use by the United States Geological Survey in gaging streams and underground water resources, acquire lands by donation or when funds have been appropriated by Congress by purchase or condemnation, but not in excess of ten acres for any one stream gaging station or observation well site. For the same purpose the Secretary of the Interior may obtain easements, licenses, rights-of-way, and leases limited to run for such a period of time or term of years as may be required for the effective performance of the function of gaging streams and underground water resources: *Provided*, That nothing in this section shall be construed as affecting or intended to affect or in any way to interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this section, shall proceed in conformity with such laws, and nothing in this section shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water, in, to, or from any interstate stream or the waters thereof.

(Dec. 24, 1942, ch. 822, 56 Stat. 1086; Pub. L. 86–406, Apr. 4, 1960, 74 Stat. 14; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

AMENDMENTS

1960—Pub. L. 86–406 authorized Secretary of the Interior to acquire lands and interests in lands for observation well sites to gage underground water resources.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

### § 36c. Acceptance of contributions from public and private sources; cooperation with other agencies in prosecution of projects

In fiscal year 1987 and thereafter the United States Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

(Pub. L. 99–500, § 101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–252, and Pub. L. 99–591, § 101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–252; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

### § 36d. Cooperative agreements

Notwithstanding the provisions of the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301–6308), the United States Geological Survey is authorized to continue existing, and on and after November 10, 2003, to enter into new cooperative agreements directed towards a particular cooperator, in support of joint research and data collection activities with Federal, State, and academic partners funded by appropriations herein, including those that provide for space in cooperator facilities.

(Pub. L. 108–108, title I, Nov. 10, 2003, 117 Stat. 1254.)

REFERENCES IN TEXT

The Federal Grant and Cooperative Agreement Act of 1977, referred to in text, is Pub. L. 95–224, Feb. 3, 1978, 92 Stat. 3, which was classified generally to chapter 8 (§ 501 et seq.) of former Title 41, Public Contracts, and was repealed and reenacted as chapter 63 (§ 6301 et seq.) of Title 31, Money and Finance, by Pub. L. 97–258, §§ 1, 5(b), Sept. 13, 1982, 96 Stat. 877, 1068.

Appropriations herein, referred to in text, probably means appropriations under the headings ''UNITED STATES GEOLOGICAL SURVEY'', ''SURVEYS, INVESTIGATIONS, AND RESEARCH'' and ''ADMINISTRATIVE PROVISIONS'', of the annual Department of the Interior and Related Agencies Appropriations Act.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation act:

Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 228.

### § 37. Omitted

CODIFICATION

Section, act June 12, 1917, ch. 27, 40 Stat. 144, related to purchases or services for the Geological Survey, was omitted as superseded.

### § 38. Topographic surveys; marking elevations

In making topographic surveys west of the ninety-fifth meridian elevations above a base level located in each area under survey shall be determined and marked on the ground by iron or stone posts or permanent bench marks, at least two such posts or bench marks to be established in each township, or equivalent area, except in the forest-clad and mountain areas, where at least one shall be established, and these shall be placed, whenever practicable, near the township corners of the public-land surveys; and in the areas east of the ninety-fifth meridian at least one such post or bench mark shall be similarly established in each area equivalent to the area of a township of the public land surveys.

(June 11, 1896, ch. 420, 29 Stat. 435.)

### §§ 39, 40. Omitted

CODIFICATION

Section 39, act Feb. 27, 1925, ch. 360, § 1, 43 Stat. 1011, authorized the President to complete a general utility topographical survey of the territory of the United States within a period of twenty years from Feb. 27, 1925.

Section 40, act Feb. 27, 1925, ch. 360, § 2, 43 Stat. 1011, related to cooperative agreements with States to expedite completion of topographical survey.

### § 41. Publications and reports; preparation and sale

Except as otherwise provided in section 1318 of title 44, the publications of the United States Geological Survey shall consist of geological and economic maps, illustrating the resources and classification of the lands, and reports upon general and economic geology and paleontology. All special memoirs and reports of said survey shall be issued in uniform quarto series if deemed necessary by the director, but otherwise in ordinary octavos. Three thousand copies of each shall be published for scientific exchanges and for sale at the price of publication, and all literary and cartographic materials received in exchange shall be the property of the United States and form a part of the library of the organization; and the money resulting from the sale of such publications shall be covered into the Treasury of the United States, under the direction of the Secretary of the Interior.

(Mar. 3, 1879, ch. 182, 20 Stat. 394; Aug. 7, 1946, ch. 770, § 1(10), 60 Stat. 867; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CODIFICATION

''Section 1318 of title 44'' substituted in text for ''section 260 of title 44'' on authority of Pub. L. 90–620, § 2(b), Oct. 22, 1968, 82 Stat. 1238, the first section of which enacted Title 44, Public Printing and Documents.

The words ''Except as otherwise provided in section 260 of title 44'' were originally inserted in text to avoid conflict with the provisions of such section 260 of title 44, as set out prior to the general revision of title 44 by Pub. L. 90–620, derived from Joint Res. May 16, 1902, No. 22.

AMENDMENTS

1946—Act Aug. 7, 1946, repealed all provisions requiring preparation, and transmission by Secretary of the Interior, of an annual report of operations.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 42. Distribution of maps and atlases, etc.

The Director of the United States Geological Survey is authorized and directed, on the approval of the Secretary of the Interior, to dispose of the topographic and geologic maps and atlases of the United States, made and published by the United States Geological Survey, at such prices and under such regulations as may from time to time be fixed by him and approved by the Secretary of the Interior; and a number of copies of each map or atlas, not exceeding five hundred, shall be distributed gratuitously among foreign governments and departments of our own Government to literary and scientific associations, and to such educational institutions or libraries as may be designated by the Director of the Survey and approved by the Secretary of the Interior. On and after June 7, 1924, the distribution of geological publications to libraries designated as special depositaries of such publications shall be discontinued.

(Feb. 18, 1897, No. 13, § 1, 29 Stat. 701; June 7, 1924, ch. 303, 43 Stat. 592; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CODIFICATION

The first sentence is from Joint Res. Feb. 18, 1897; the second sentence is from act June 7, 1924.

Joint Res. Feb. 18, 1897 superseded a provision contained in act June 11, 1896, ch. 420, 29 Stat. 436, authorizing the sale of topographical maps with text at cost and ten per centum added.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 42a. Use of receipts from sale of maps for map printing and distribution

In fiscal year 1984 and thereafter, all receipts from the sale of maps sold or stored by the

United States Geological Survey shall be available for map printing and distribution to supplement funds otherwise available, to remain available until expended.

(Pub. L. 98–146, title I, Nov. 4, 1983, 97 Stat. 926; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

### § 43. Copies to Senators, Representatives, and Delegates

One copy of each map and atlas shall be sent to each Senator and each Representative and Delegate in Congress, if published within his term; and a second copy shall be placed at the disposal of each such Senator, Representative and Delegate

(Feb. 18, 1897, No. 13, § 2, 29 Stat. 701.)

### § 44. Sale of transfers or copies of data

The Director of the United States Geological Survey shall, if the regular map work of the Survey is in no wise interfered with thereby, furnish to any person, concern, institution, State or foreign government, that shall pay in advance the whole cost thereof with 10 per centum added, transfers or copies of any cartographic or other engraved or lithographic data in the division of engraving and printing of the Survey, and the moneys received by the Director for such transfers or copies shall be deposited in the Treasury.

(June 30, 1906, ch. 3914, 34 Stat. 727; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 45. Production and sale of copies of photographs and records; disposition of receipts

The Director of the United States Geological Survey on and after March 4, 1909 may produce and sell on a reimbursable basis to interested persons, concerns, and institutions, copies of aerial or other photographs and mosaics that have been obtained in connection with the authorized work of the United States Geological Survey and photographic or photostatic reproductions of records in the official custody of the Director at such prices (not less than the estimated cost of furnishing such copies or reproductions) as the Director, with the approval of the Secretary of the Interior, may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation then current and chargeable for the cost of furnishing copies or reproductions as herein authorized.

(Mar. 4, 1909, ch. 299, 35 Stat. 989; July 21, 1947, ch. 273, 61 Stat. 398.)

AMENDMENTS

1947—Act July 21, 1947, authorized production and sale of aerial or other photographs and reproductions of records on a reimbursement of appropriations basis.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 46. Omitted

CODIFICATION

Section, act Oct. 12, 1949, ch. 680, title I, 63 Stat. 785, related to exchange of old freight carrying vehicles as part payment for new, was from the Interior Department Appropriation Act, 1950, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

June 29, 1948, ch. 754, 62 Stat. 1133.
July 25, 1947, ch. 337, 61 Stat. 477.
July 1, 1946, ch. 529, 60 Stat. 369.
July 3, 1945, ch. 262, 59 Stat. 343.
June 28, 1944, ch. 298, 58 Stat. 491.
July 12, 1943, ch. 219, 57 Stat. 477.
July 2, 1942, ch. 473, 56 Stat. 537.
June 28, 1941, ch. 259, 55 Stat. 339.
June 18, 1940, ch. 395, 54 Stat. 439.
May 10, 1939, ch. 119, 53 Stat. 719.
May 9, 1938, ch. 187, 52 Stat. 325.
Aug. 9, 1937, ch. 570, 50 Stat. 598.
June 22, 1936, ch. 691, 49 Stat. 1785.
May 9, 1935, ch. 101, 49 Stat. 200.
Mar. 2, 1934, ch. 38, 48 Stat. 382.
Feb. 17, 1933, ch. 98, 47 Stat. 846.
Apr. 22, 1932, ch. 125, 47 Stat. 118.
Feb. 14, 1931, ch. 187, 46 Stat. 1147.
May 14, 1930, ch. 273, 46 Stat. 310.
Mar. 4, 1929, ch. 705, 45 Stat. 1594.
Mar. 7, 1928, ch. 137, 45 Stat. 231.
Jan. 12, 1927, ch. 27, 44 Stat. 961.
May 10, 1926, ch. 277, 44 Stat. 486.
Mar. 3, 1925, ch. 462, 43 Stat. 1172.
June 5, 1924, ch. 264, 43 Stat. 419.
Jan. 24, 1923, ch. 42, 42 Stat. 1208.
May 24, 1922, ch. 199, 42 Stat. 586.

### § 47. Repealed. Aug. 7, 1946, ch. 770, § 1(11), 60 Stat. 867

Section, act May 10, 1926, ch. 277, 44 Stat. 487, required annual statements and reports of expenditures for the benefit of Indians relating to the operation of oil and gas leases, and the mining of other minerals, on Indian lands.

### § 48. Omitted

CODIFICATION

Section, act Jan. 12, 1927, ch. 27, 44 Stat. 963, required amounts received by the Geological Survey from any State, Territory or political subdivision thereof in carrying on work involving cooperation to be used in reimbursing the appropriation from which the expense of such work was paid, was from the act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1928 and for other purposes, and was not repeated in subsequent appropriation acts.

Similar provisions were contained in the following act: May 10, 1926, ch. 277, 44 Stat. 487.

### § 49. Extension of cooperative work to Puerto Rico

The provisions of law authorizing the making of topographic and geological surveys and conducting investigations relating to mineral and water resources by the United States Geological Survey in various portions of the United States be, and the same are, extended to authorize such surveys and investigations in Puerto Rico.

(June 17, 1935, ch. 268, 49 Stat. 386.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 50. Survey's share of cost of topographic mapping or water resources investigations carried on with States

The share of the United States Geological Survey in any topographic mapping or water resources data collection and investigations carried on in cooperation with any State or municipality shall not exceed 50 per centum of the cost thereof.

(Pub. L. 112–74, div. E, title I, Dec. 23, 2011, 125 Stat. 993.)

CODIFICATION

Section text is based on act July 31, 1953, ch. 298, title I, §1, 67 Stat. 269, as continued and modified for the fiscal year covered by the appropriation act cited as the credit to this section.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 111–88, div. A, title I, Oct. 30, 2009, 123 Stat. 2913.
Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 710.
Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2108.
Pub. L. 109–54, title I, Aug. 2, 2005, 119 Stat. 510.
Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3052.
Pub. L. 108–108, title I, Nov. 10, 2003, 117 Stat. 1254.
Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 228.
Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 427.
Pub. L. 106–291, title I, Oct. 11, 2000, 114 Stat. 931.
Pub. L. 106–113, div. B, §1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–145.
Pub. L. 105–277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–242.
Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1552.
Pub. L. 104–208, div. A, title I, §101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–190.
Pub. L. 104–134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–165; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.
Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2507.
Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1387.
Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1384.
Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.
Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1924.
Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 710.
Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1790.
Pub. L. 100–202, §101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–224.
Pub. L. 99–500, §101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–252, and Pub. L. 99–591, §101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–252.
Pub. L. 99–190, §101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1231.
Pub. L. 98–473, title I, §101(c) [title I], Oct. 12, 1984, 98 Stat. 1837, 1845.
Pub. L. 98–146, title I, Nov. 4, 1983, 97 Stat. 926.
Pub. L. 97–394, title I, Dec. 30, 1982, 96 Stat. 1972.
Pub. L. 97–100, title I, Dec. 23, 1981, 95 Stat. 1397.
Pub. L. 96–514, title I, Dec. 12, 1980, 94 Stat. 2963.
Pub. L. 96–126, title I, Nov. 27, 1979, 93 Stat. 961.
Pub. L. 95–465, title I, Oct. 17, 1978, 92 Stat. 1285.
Pub. L. 95–74, title I, July 26, 1977, 91 Stat. 290.
Pub. L. 94–373, title I, July 31, 1976, 90 Stat. 1048.
Pub. L. 94–165, title I, Dec. 23, 1975, 89 Stat. 983.
Pub. L. 93–404, title I, Aug. 31, 1974, 88 Stat. 808.
Pub. L. 93–120, title I, Oct. 4, 1973, 87 Stat. 434.
Pub. L. 92–369, title I, Aug. 10, 1972, 86 Stat. 513.
Pub. L. 92–76, title I, Aug. 10, 1971, 85 Stat. 234.
Pub. L. 91–361, title I, July 31, 1970, 84 Stat. 674.
Pub. L. 91–98, title I, Oct. 29, 1969, 83 Stat. 152.
Pub. L. 90–425, title I, July 26, 1968, 82 Stat. 431.
Pub. L. 90–28, title I, June 24, 1967, 81 Stat. 64.
Pub. L. 89–435, title I, May 31, 1966, 80 Stat. 175.
Pub. L. 89–52, title I, June 28, 1965, 79 Stat. 181.
Pub. L. 88–356, title I, July 7, 1964, 78 Stat. 280.
Pub. L. 88–79, title I, July 26, 1963, 77 Stat. 103.
Pub. L. 87–578, title I, Aug. 9, 1962, 76 Stat. 341.
Pub. L. 87–122, title I, Aug. 3, 1961, 75 Stat. 252.
Pub. L. 86–455, title I, May 13, 1960, 74 Stat. 108.
Pub. L. 86–60, title I, June 23, 1959, 73 Stat. 96.
Pub. L. 85–439, title I, June 4, 1958, 72 Stat. 159.
Pub. L. 85–77, title I, July 1, 1957, 71 Stat. 261.
June 13, 1956, ch. 380, title I, 70 Stat. 261.
June 16, 1955, ch. 147, title I, 69 Stat. 145.
July 1, 1954, ch. 446, title I, 68 Stat. 368.
July 31, 1953, ch. 298, title I, 67 Stat. 269.
July 9, 1952, ch. 597, title I, 66 Stat. 454.
Aug. 31, 1951, ch. 375, title I, 65 Stat. 259.
Sept. 6, 1950, ch. 896, Ch. VII, title I, 64 Stat. 690.

### § 50–1. Funds for mappings and investigations considered intragovernmental funds

Beginning October 1, 1990, and thereafter, funds received from any State, territory, possession, country, international organization, or political subdivision thereof, for topographic, geologic, or water resources mapping or investigations involving cooperation with such an entity shall be considered as intragovernmental funds as defined in the publication titled ''A Glossary of Terms Used in the Federal Budget Process''.

(Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1924.)

### § 50a. Working capital fund for United States Geological Survey

There is hereby established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the United States Geological Survey (hereafter referred to as the ''Survey''), Department of the Interior. The fund shall be available on and after November 5, 1990, without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, facilities, and services in support of Survey programs, and, as authorized by law, to agencies of the Federal Government and others. Such expenses may include laboratory modernization and equipment replacement, computer operations, maintenance, and telecommunications services; requirements definition, systems

analysis, and design services; acquisition or development of software; systems support services such as implementation assistance, training, and maintenance; acquisition and replacement of computer, publications, scientific instrumentation, telecommunications, and related automatic data processing equipment; and, such other activities as may be approved by the Secretary of the Interior.

There are authorized to be transferred to the fund, at fair and reasonable values at the time of transfer, inventories, equipment, receivables, and other assets, less liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior: *Provided*, That the fund shall be credited with appropriations and other funds of the Survey, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law and such payments may be made in advance or upon performance: *Provided further*, That charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services, including such items as depreciation of equipment and facilities, and accrued annual leave: *Provided further*, That all existing balances as of November 5, 1990, from amortization fees resulting from the Survey providing telecommunications services and deposited in a special fund established on the books of the Treasury and available for payment of replacement or expansion of telecommunications services as authorized by Public Law 99–190, are hereby transferred to and merged with the working capital fund, to be used for the same purposes as originally authorized: *Provided further*, That funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

(Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1924; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2507.)

REFERENCES IN TEXT

Provisions relating to the special fund authorized by Public Law 99–190, referred to in text, were formerly classified to this section. See Prior Provisions note below.

PRIOR PROVISIONS

A prior section 50a, Pub. L. 99–190, § 101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1231, related to deposit of amortization fees from Geological Survey providing telecommunications services.

AMENDMENTS

1994—Pub. L. 103–332 in first par., in second sentence after ''work,'' inserted ''facilities,'', in third sentence after ''include'' inserted ''laboratory modernization and equipment replacement,'', after ''operations'' inserted '', maintenance,'', and after ''replacement of computer,'' inserted ''publications, scientific instrumentation,'' and in second par., in second proviso after ''depreciation of equipment'' inserted ''and facilities,''.

CHANGE OF NAME

''United States Geological Survey'' substituted for ''Geological Survey'' in first paragraph pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

## § 50b. Recording of obligations against accounts receivable and crediting of amounts received; work involving cooperation with State, Territory, etc.

Before, on, and after October 18, 1986, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the United States Geological Survey may, notwithstanding any other provision of law, record obligations against accounts receivable from any such entities and shall credit amounts received from such entities to this appropriation.

(Pub. L. 99–500, § 101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–252, and Pub. L. 99–591, § 101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–252; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

REFERENCES IN TEXT

This appropriation, referred to in text, probably means appropriations under the headings ''GEOLOGICAL SURVEY'' and ''SURVEYS, INVESTIGATIONS, AND RESEARCH'' of the annual Department of the Interior and Related Agencies Appropriations Act.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500. In text, ''Before, on, and after October 18, 1986'' substituted for ''heretofore and hereafter''.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

## § 50c. Payment of costs incidental to utilization of services of volunteers

Appropriations herein and on and after December 22, 1987, made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the United States Geological Survey, and that within appropriations herein and on and after December 22, 1987, provided, United States Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further*, That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government.

(Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–224; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

REFERENCES IN TEXT

Appropriations herein, referred to in text, probably means appropriations under the headings ''GEOLOGICAL SURVEY'', ''SURVEYS, INVESTIGATIONS, AND RESEARCH'' and ''ADMINISTRATIVE PROVISIONS'', of the annual Department of the Interior and Related Agencies Appropriations Act.

CHANGE OF NAME

''United States Geological Survey'' substituted in text for ''Geological Survey'' pursuant to provision of

title I of Pub. L. 102–154, set out as a note under section 31 of this title.

### § 50d. Services of students or recent graduates

The United States Geological Survey may on and after November 29, 1999, contract directly with individuals or indirectly with institutions or nonprofit organizations, without regard to section 6101 of title 41, for the temporary or intermittent services of students or recent graduates, who shall be considered employees for the purposes of chapters 57 and 81 of title 5, relating to compensation for travel and work injuries, and chapter 171 of title 28, relating to tort claims, but shall not be considered to be Federal employees for any other purposes.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–146.)

CODIFICATION

In text, ''section 6101 of title 41'' substituted for ''41 U.S.C. 5'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–243.

## CHAPTER 3—SURVEYS

Sec.
51. Omitted.
52. Surveying duties.
53. Powers devolved on Secretary of the Interior on turning over of papers to States.
54. Completion of surveys; delivery to States.
55. Field notes delivered to States; access to.
56. Conditions of delivery to States.
57. Authenticated copies or extracts from records as evidence.
58. Transcripts from records of Louisiana.
59. Official papers in office of surveyor general in California; copies.
60. Stationery for mineral surveys.
61 to 63. Repealed.

### § 51. Omitted

CODIFICATION

Section, act Mar. 3, 1925, ch. 462, 43 Stat. 1144, which abolished office of surveyor general and transferred its functions to Field Surveying Service under Supervisor of Surveys, was superseded by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. See note set out under section 1 of this title.

The office of surveyor general abolished in certain States by acts July 31, 1876, ch. 246, 19 Stat. 121, and Oct. 2, 1888, ch. 1069, 25 Stat. 525, and discontinued in others pursuant to R.S. § 2218.

So far as they were not already superseded or obsolete by reason of abolition or discontinuance of the office, or otherwise, the following provisions were superseded by former provisions of this section:

R.S. § 2207, providing for appointment of surveyors general in States and territories therein named, and acts Apr. 10, 1890, ch. 77, § 1, 26 Stat. 53, and July 24, 1897, ch. 14, § 2, 30 Stat. 215, providing for surveyors general in North and South Dakota and Alaska;

R.S. §§ 2208 to 2211; acts Apr. 10, 1890, ch. 77, § 2, 26 Stat. 53; July 24, 1897, ch. 14, § 3, 30 Stat. 215, concerning salaries of particular surveyors general;

R.S. §§ 2212 to 2214, concerning number and location, of offices, and place of residence, of surveyors general.

R.S. §§ 2215 and 2216, concerning bonds of surveyors general;

R.S. § 2217, concerning duration of term of office of surveyors general;

R.S. §§ 2226 and 2227, concerning allowances for clerk hire and office expenses;

Act Mar. 3, 1893, ch. 211, 27 Stat. 709, relative to consolidation of offices of two or more surveyors general; and provisions of act May 24, 1922, ch. 199, 42 Stat. 556, and prior acts concerning detail of clerks from office of one surveyor general to another.

### § 52. Surveying duties

The Secretary of the Interior or such officer as he may designate shall engage a sufficient number of skillful surveyors as his deputies, to whom he is authorized to administer the necessary oaths upon their appointments. He shall have authority to frame regulations for their direction, not inconsistent with law or the instructions of the Bureau of Land Management, and to remove them for negligence or misconduct in office.

Second. He shall cause to be surveyed, measured, and marked, without delay, all base and meridian lines through such points and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed by law or by instructions from the Bureau of Land Management, in respect to the public lands to which the Indian title has been or may be extinguished.

Third. He shall cause to be surveyed all private land claims after they have been confirmed by authority of Congress, so far as may be necessary to complete the survey of the public lands.

Fourth. He shall transmit to the officer, as the Secretary of the Interior may designate, of the respective land offices general and particular plats of all lands surveyed by him for each land district; and he shall forward copies of such plats to such officer as the Secretary may designate.

Fifth. He shall, so far as is compatible with the desk duties of his office, occasionally inspect the surveying operations while in progress in the field, sufficiently to satisfy himself of the fidelity of the execution of the work according to contract, and the actual and necessary expenses incurred by him while so engaged shall be allowed; and where it is incompatible with his other duties for the Secretary of the Interior or such officer as he may designate to devote the time necessary to make a personal inspection of the work in progress, then he is authorized to depute a confidential agent to make such examination; and the actual and necessary expenses of such person shall be allowed and paid for that service, and $5 a day during the examination in the field; but such examination shall not be protracted beyond thirty days; and in no case longer than is actually necessary; and when the Secretary or such officer, or any person employed in his office at a regular salary, is engaged in such special service, he shall receive only his necessary expenses in addition to his regular salary.

(R.S. § 2223; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Provisions different from those of the fifth paragraph of this section, for inspection of surveying operations,

were made by several Sundry Civil Appropriation Acts, in connection with the appropriations for surveys and resurveys, and limited to the expenditure of the particular appropriation.

R.S. § 2223 derived from acts May 18, 1796, ch. 29, § 1, 1 Stat. 464; Apr. 29, 1816, ch. 151, § 1, 3 Stat. 325; Mar. 3, 1831, ch. 116, § 1, 4 Stat. 492; Mar. 3, 1853, ch. 145, §§ 3, 10, 10 Stat. 245, 247; Apr. 24, 1874, ch. 127, 18 Stat. 34; Aug. 9, 1876, ch. 256, 19 Stat. 126.

TRANSFER OF FUNCTIONS

References to Supervisor of Surveys and Commissioner of General Land Office changed to Secretary of the Interior or such officer as he may designate, reference to manager changed to officer designated by Secretary of the Interior, and ''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Previously, references to surveyors general were changed to supervisor of surveys and provisions limiting application of section to points ''within his surveying district'' were omitted on authority of act Mar. 3, 1925, which abolished office of surveyor general and transferred its activities to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 53. Powers devolved on Secretary of the Interior on turning over of papers to States

In all cases where, as provided in section 54 of this title, the field notes, maps, records, and other papers appertaining to land titles in any State are turned over to the authorities of such State, the same authority, powers, and duties in relation to the survey, resurvey, or subdivision of the lands therein, and all matters and things connected therewith, as previously exercised by the surveyor general, whose district included such State, shall be vested in, and devolved upon, the Secretary of the Interior or such officer as he may designate.

(R.S. § 2219; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2219 derived from act Jan. 22, 1853, ch. 24, § 1, 10 Stat. 152.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

SURVEYOR GENERAL

Abolition of office of surveyor general, see note set out under section 51 of this title.

### § 54. Completion of surveys; delivery to States

The Secretary of the Interior shall take all the necessary measures for the completion of the surveys in the several surveying districts, at the earliest periods compatible with the purposes contemplated by law; and whenever the surveys and records of any such district are completed, the Secretary of the Interior or such officer as he may designate shall deliver over to the secretary of state of the respective States, including such surveys, or to such other officer as may be authorized to receive them, all the field notes, maps, records, and other papers appertaining to land titles within the same.

(R.S. § 2218; June 5, 1924, ch. 264, 43 Stat. 394; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The original text of R.S. § 2218 provided for completion of surveys ''in the several surveying-districts for which surveyors general have been, or may be, appointed'' and also provided that ''the surveyor general thereof shall be required to deliver over'' all papers appertaining to land titles within the district, ''and the office of surveyor general in every such district shall thereafter cease and be discontinued.'' The references to the surveyors general were omitted in view of act Mar. 3, 1925 (classified to section 51 of this title) abolishing office of surveyor general and transferring its activities to the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys. See, also, Transfer of Functions note below.

R.S. § 2207, formerly cited as a credit to this section, which provided for appointment of surveyors general, was superseded by act Mar. 3, 1925 (classified to section 51 of this title) and repealed by act Mar. 3, 1933, ch. 202, § 1, 47 Stat. 1429.

Act June 5, 1924, appropriated funds for use in making the surveys in twelve districts.

Act May 25, 1906, ch. 2554, 34 Stat. 199, provided for a survey, pursuant to R.S. § 2218, of unsurveyed lands in Louisiana, and was omitted.

Provisions of act Oct. 2, 1888, ch. 1069, 25 Stat. 525, which provided for transfer to State officials of field notes, maps, records and other papers appertaining to land surveys in Nebraska and Iowa, were omitted.

All records, etc., belonging to office of recorder of land titles for Missouri were delivered to State upon discontinuance of office, by provisions of act June 6, 1874, ch. 223, § 3, and act July 31, 1876, ch. 246.

R.S. § 2218 derived from acts June 12, 1840, ch. 36, § 1, 5 Stat. 384; July 31, 1876, ch. 246, 19 Stat. 121.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Supervisor of Surveys'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 55. Field notes delivered to States; access to

Under the authority and direction of the Secretary of the Interior or such officer as he may designate, any deputy surveyor or other agent of the United States shall have free access to any field notes, maps, records, and other papers, mentioned in section 53 of this title, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind.

(R.S. § 2220; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The word ''such'' before ''field notes'' was omitted and the words ''mentioned in section 53 of this title'' were inserted after ''papers,''.

R.S. § 2220 derived from act Jan. 22, 1853, ch. 24, § 2, 10 Stat. 152.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 56. Conditions of delivery to States

The field notes, maps, records, and other papers mentioned in section 53 of this title, shall in no case be turned over to the authorities of any State, until such State has provided by law for the reception and safe-keeping of the same as public records, and for the allowance of free access to the same by the authorities of the United States.

(R.S. § 2221.)

CODIFICATION

R.S. § 2221 derived from acts Jan. 22, 1853, ch. 24, § 3, 10 Stat. 152; June 6, 1874, ch. 223, § 3, 18 Stat. 62.

### § 57. Authenticated copies or extracts from records as evidence

Any copy of or extract from the plats, field notes, records, or other papers of the offices of the former surveyors general for the districts of Oregon and California, when authenticated by the seal and signature of the Secretary of the Interior or such officer as he may designate, shall be evidence in all cases in which the original would be evidence.

(R.S. § 2224; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section is from a part of R.S. § 2224, as affected by act Mar. 3, 1925. The original text provided for the continuation of the use of the official seals authorized for the offices of the surveyors general of Oregon, California, and Louisiana. This provision was superseded by act Mar. 3, 1925 (classified to section 51 of this title), abolishing the office of surveyor-general. The rest of the section became inapplicable to Louisiana upon the discontinuance of the office of surveyor general of Louisiana pursuant to R.S. § 2218. The text of this section was changed to provide for authentication by the supervisor of surveys, instead of a surveyor-general, in view of act Mar. 3, 1925 (classified to section 51 of this title) abolishing the office of surveyor general and transferring its activities to the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys. See, also, Transfer of Functions note below.

R.S. § 2224 derived from act Mar. 3, 1853, ch. 145, §§ 2, 11, 10 Stat. 245, 248.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Supervisor of Surveys'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 58. Transcripts from records of Louisiana

Any copy of a plat of survey, or transcript from the records of the office of the former surveyor general of Louisiana, duly certified, shall be admitted as evidence in all the courts of the United States and the Territories thereof.

(R.S. § 2225.)

CODIFICATION

The word ''former'' was inserted in text before ''surveyor general'' because of the discontinuance of the office of surveyor general in Louisiana.

R.S. § 2225 derived from act Mar. 3, 1831, ch. 116, § 5, 4 Stat. 493.

### § 59. Official papers in office of surveyor general in California; copies

All official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies, which have been authorized by law to be collected and deposited in the surveyor general's office in California, shall be safely and securely kept by the Secretary of the Interior, or such officer as he may designate, in the archives of his office until disposed of as provided by law; and copies thereof, authenticated by the Secretary or such officer under his seal of office, shall be evidence in all cases where the originals would be evidence.

(R.S. § 2229; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Oct. 25, 1951, ch. 562, § 3(3), 65 Stat. 639.)

CODIFICATION

R.S. § 2229 derived from act May 18, 1858, ch. 39, § 1, 11 Stat. 289.

AMENDMENTS

1951—Act Oct. 25, 1951, inserted ''until disposed of as provided by law''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Supervisor of Surveys'' on authority on section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Previously, ''Supervisor of Surveys'' was substituted for ''surveyor general'' by act Mar. 3, 1925.

### § 60. Stationery for mineral surveys

The stationery and drafting instruments purchased on and after March 3, 1901, for exclusive use of the Secretary of the Interior or such officers as he may designate in the preparation of plats and field notes of mineral surveys, as also the rent of additional quarters that may be necessary for the execution of such work, shall be paid for out of the fund created by deposits made by individuals to the credit of the United States to cover the cost of office work on such mineral surveys.

(Mar. 3, 1901, ch. 830, § 1, 31 Stat. 1003; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No.

3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Field Surveying Service'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Previously, ''Field Surveying Service'' substituted for ''surveyors-general'' on authority of act Mar. 3, 1925, which abolished office of surveyor general and transferred its activities to Field Surveying Service.

### §§ 61 to 63. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 61, R.S. § 2230; act Mar. 3, 1925, ch. 462, 43 Stat. 1144, related to bonds for deputy surveyors.

Section 62, R.S. § 2231, act Mar. 3, 1925, ch. 462, 43 Stat. 1144, related to oath of deputy surveyors.

Section 63, R.S. § 2232; act Mar. 3, 1925, ch. 462, 43 Stat. 1144, related to suits on bond of deputy surveyors.

## CHAPTER 4—DISTRICT LAND OFFICES

Sec.
70 to 74. Repealed or Omitted.
75. Administration of oaths.
75a to 79b. Repealed.
79c. Payment of fees, commissions, etc.; deposit in Treasury.
79d. Alaska land claimant liable for fees, commissions or purchase money; deposit in Treasury.
80 to 82. Repealed.
83. Transcripts of records as evidence.
84, 85. Repealed or Omitted.
86. Accounting for fees for notices of cancellation of entries.
87, 88. Repealed.
89. Monthly returns of district land offices.
90. Omitted.
91. Deposit in Treasury of unearned fees and unofficial moneys.
92. Lists furnished with deposits.
93. Deposit of moneys deposited by unknown parties.
94. Reimbursement of sums disbursed as special disbursing agents.
95 to 98a. Repealed.
99. Repayment of moneys deposited and covered into Treasury.
100. Disqualification.
101. Report of disqualification; designation of officer to act.
102. Attendance of witnesses.
103. Witnesses' fees.
104. Disobedience to subpoena.
105. Depositions of witnesses residing outside county.
106. Continuing taking of depositions in behalf of opposite party.
107. Penalty for false information.

### §§ 70 to 73. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 638, 645, 646

Section 70, act Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208, consolidated offices of register and receiver.

Section 71, act Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for consolidation of offices of register and receiver, effective July 1, 1925.

Section 72, R.S. § 2334; acts Jan. 27, 1898, ch. 10, 30 Stat. 234; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, 11 F.R. 7876, 60 Stat. 1100, related to duties of Secretary of the Interior concerning sale of public lands.

Section 73, act Oct. 28, 1921, ch. 114, § 2, 42 Stat. 208, related to designation of chief clerk to act in case of death, resignation, removal, or disability of register.

PRIOR PROVISIONS

Provisions similar to section 71 of this title were contained in the following prior appropriation acts:

Jan. 24, 1923, ch. 42, 42 Stat. 1179.
June 30, 1922, ch. 255, § 1, 42 Stat. 766.
May 24, 1922, ch. 199, 42 Stat. 557.
Mar. 24, 1921, ch. 161, 41 Stat. 1397.
June 5, 1920, ch. 235, 41 Stat. 907.
July 19, 1919, ch. 24, 41 Stat. 194.

Act May 24, 1922, ch. 199, 42 Stat. 557, abolished land office at Springfield and offices of register and receiver thereat.

Act May 2, 1914, ch. 74, §§ 1, 2, 38 Stat. 371, 372, abolished office of receiver of public moneys at Springfield, Mo., transferred his duties and custody of books, records, etc., to register, and contained other provisions concerning register's duties.

Act. Mar. 2, 1895, ch. 177, § 3, 28 Stat. 807, required duplication of reports and returns of registers and receivers to be prevented by regulations.

Act. Oct. 1, 1890, ch. 1269, § 2, 26 Stat. 657, concerned taking of final proofs by remaining officer in case of a vacancy in office of register or receiver.

### § 74. Omitted

CODIFICATION

Section, R.S. § 2228, acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, which authorized President to transfer duties of register in any district to Supervisor of Surveys, was omitted pursuant to Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. See note set out under section 1 of this title.

### § 75. Administration of oaths

The officer designated by the Secretary of the Interior is authorized, and it shall be his duty, to administer any oath required by law or the instructions of the Bureau of Land Management, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath.

(R.S. § 2246; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The words ''or receiver'' which followed ''register'' in the original text were omitted, in view of act Mar. 3, 1925 (classified to section 71 of this title), providing for the consolidation of the offices of register and receiver. See, also, Transfer of Functions note below.

R.S. § 2246 derived from act June 12, 1840, ch. 35, 5 Stat. 384.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Reference to ''register'' changed to ''officer designated by the Secretary of the Interior'' and ''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### §§ 75a to 79b. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 645, 646, 652

Section 75a, act May 17, 1926, ch. 303, 44 Stat. 558, authorized administration of oaths by an employee of Department of the Interior designated to act as register.

Section 76, R.S. § 2244; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to term of office of registers.

Section 77, R.S. § 2222; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for continuation of duties and bond of register after expiration of his commission.

Section 78, R.S. § 2235; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, required register to reside at place where land office was located.

Section 79, R.S. § 2236; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, required registers to give bond in the penal sum of $10,000.

Section 79a, act Apr. 24, 1944, ch. 177, § 1, 58 Stat. 215, related to bond for registers.

Section 79b, act Apr. 24, 1944, ch. 177, § 2, 58 Stat. 215, related to compensation for registers.

### § 79c. Payment of fees, commissions, etc.; deposit in Treasury

No provision of this Act shall relieve any public land applicant or claimant from the necessity of making payment of fees, commissions, or other moneys required by law or regulation. Commencing sixty days after April 24, 1944, the officials of district land offices shall not receive any compensation based on fees, commissions, or other receipts and all amounts collected by them shall be covered into the Treasury of the United States.

(Apr. 24, 1944, ch. 177, § 3, 58 Stat. 215; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

This Act, referred to in text, is act Apr. 24, 1944, ch. 177, 58 Stat. 215, as amended, which enacted sections 79a to 79c of this title, repealed sections 80 and 80a of this title, and enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Tables.

REPEALS

Section 4 of act Apr. 24, 1944, provided: ''Sections 2237 and 2240 of the Revised Statutes and the act of May 21, 1928 (45 Stat. 684; 43 U.S.C., sec. 80), as amended [sections 80 and 80a of this title], are hereby repealed, and all other provisions of law inconsistent with this Act [See References in Text note above] are repealed to the extent of such inconsistency.''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''officials of district land offices'' substituted for ''registers'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

EXTENSION TO ALASKA

Section 5 of act Apr. 24, 1944, provided that the provisions of this Act [see References in Text note above] not extend to the territory of Alaska.

### § 79d. Alaska land claimant liable for fees, commissions or purchase money; deposit in Treasury

No provision of this Act shall relieve any public land claimant from the necessity of making payment of fees, commissions, or purchase money required by law or regulation in connection with an application, selection, location, or lease of public lands in Alaska, and all such payments, when made, shall be covered into the Treasury of the United States.

(Oct. 9, 1942, ch. 584, § 5, 56 Stat. 779.)

REFERENCES IN TEXT

This Act, referred to in text, is act Oct. 9, 1942, ch. 584, 56 Stat. 778, which enacted sections 79d and 123a of this title and sections 366 and 367 of Title 48, Territories and Insular Possessions, amended sections 80 and 751b of this title, repealed sections 366 and 367 of Title 48, and enacted provisions formerly set out as notes under section 366 of Title 48. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 367a of Title 48, Territories and Insular Possessions.

### §§ 80, 80a. Repealed. Apr. 24, 1944, ch. 177, § 4, 58 Stat. 215

Section 80, R.S. §§ 2237, 2240; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; May 21, 1928, ch. 661, 45 Stat. 684; Aug. 22, 1935, ch. 602, 49 Stat. 680; Oct. 9, 1942, ch. 584, § 7, 56 Stat. 779, provided that from and after Sept. 1, 1935, registers should be paid $2,000 per annum together with fees and commissions limited to $3,600 per annum. See section 79c of this title.

Section 80a, R.S. §§ 2237, 2240, provided that receivers should be paid $500 per annum together with fees and commissions limited to $3,000 per annum. See section 79c of this title.

### § 81. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 645, 646

Section, R.S. § 2243; acts Oct. 28, 1921, ch. 115, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to commencement of compensation of registers.

### § 82. Repealed. Pub. L. 86–649, title II, § 202(b), July 14, 1960, 74 Stat. 507

Section, R.S. § 2238; acts May 14, 1880, ch. 89, § 2, 21 Stat. 141; Dec. 17, 1880, ch. 2, 21 Stat. 311; July 26, 1892, ch. 251, 27 Stat. 270; Mar. 22, 1904, ch. 748, 33 Stat. 144; May 29, 1908, ch. 220, § 14, 35 Stat. 468; Jan. 24, 1923, ch. 42, 42 Stat. 1179; June 5, 1924, ch. 264, 43 Stat. 395; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees and commissions required to be collected by district land offices. See section 1734 of this title.

### § 83. Transcripts of records as evidence

Transcripts of the records in the district land offices, when made and duly certified to by the Secretary of the Interior or such officers as he may designate for individuals, shall be admitted as evidence in all courts of the United States and the Territories thereof, and before all officials authorized to receive evidence, with the same force and effect as the original records.

(Mar. 22, 1904, ch. 748, 33 Stat. 144; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The words ''and receivers'' which followed ''registers'' in the original text were omitted as superseded by acts Oct. 28, 1921, and Mar. 3, 1925, providing for consolidation of the two offices. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''district land offices'' substituted for ''offices of registers'' and ''the Secretary of the Interior or such officers as he may designate'' substituted for ''them'' on authority of section 403 of 1946 Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 84. Repealed. Pub. L. 86–649, title II, § 202(b), July 14, 1960, 74 Stat. 507

Section, R.S. § 2239; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees for consolidated land offices. See section 1734 of this title.

### § 85. Omitted

CODIFICATION

Section, acts Mar. 3, 1887, ch. 362, 24 Stat. 526; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; May 21, 1928, ch. 661, 45 Stat. 684, which required all fees collected by registers which would increase their salaries beyond a certain amount to be covered into the Treasury, except for certain clerical fees, was superseded by sections 79c and 79d of this title, which require all fees to be covered into the Treasury.

### § 86. Accounting for fees for notices of cancellation of entries

On and after March 4, 1911, all money or fees received or collected by the Secretary of the Interior or such officers as he may designate of United States land offices for issuing notices of cancellation of entries shall be reported and accounted for by the Secretary or such officers in the same manner as other fees or moneys received or collected.

(Mar. 4, 1911, ch. 261, §§1, 2, 36 Stat. 1352; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to ''registers of United States land offices'' and ''such registers'' changed to ''Secretary of the Interior or such officers as he may designate'' and ''the Secretary or such officers'', respectively, on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### §§ 87, 88. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, 634, 645, 646

Section 87, acts Mar. 3, 1883, ch. 101, § 2, 22 Stat. 484; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, 11 F.R. 7876, 60 Stat. 1100, related to plats of townships and lists of lands sold.

Section 88, R.S. § 2242; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to receipt of illegal fees by registers.

### § 89. Monthly returns of district land offices

The Secretary of the Interior or such officer as he may designate shall make to the Secretary of the Treasury monthly returns of the moneys received in district land offices, and pay over such money pursuant to his instructions.

(R.S. § 2245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The office of receiver consolidated with that of register by act Mar. 3, 1925, under a register only, the office of receiver being abolished. See, also, Transfer of Functions note below.

R.S. § 2245 derived from act July 4, 1836, ch. 352, § 9, 5 Stat. 111.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''registers'', ''district land offices'' substituted for ''their several offices'', and former last sentence relating to returns to Commissioner of the General Land Office omitted on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 90. Omitted

CODIFICATION

Section, act July 1, 1946, ch. 529, 60 Stat. 352, which required authorization of Commissioner of the General Land Office for expenses chargeable to the Government incurred by registers, was omitted pursuant to Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out as a note under section 1 of this title, which abolished the offices of registers and Commissioner of the General Land Office. Section was not repeated in the Interior Department Appropriation Act, 1948, act July 25, 1947, ch. 337, 61 Stat. 460. Similar provisions were contained in the following prior appropriation acts:

July 3, 1945, ch. 262, 59 Stat. 323.
June 28, 1944, ch. 298, 58 Stat. 468.
July 12, 1943, ch. 219, 57 Stat. 455.
July 2, 1942, ch. 473, 56 Stat. 511.
June 28, 1941, ch. 259, 55 Stat. 310.
June 18, 1940, ch. 395, 54 Stat. 412.
May 10, 1939, ch. 119, 53 Stat. 692.
May 9, 1938, ch. 187, 52 Stat. 297.
Aug. 9, 1937, ch. 570, 50 Stat. 569.
June 22, 1936, ch. 691, 49 Stat. 1762.
May 9, 1935, ch. 101, 49 Stat. 180.
Mar. 2, 1934, ch. 38, 48 Stat. 366.
Feb. 17, 1933, ch. 98, 47 Stat. 823.
Apr. 22, 1932, ch. 125, 47 Stat. 93.
Feb. 14, 1931, ch. 187, 46 Stat. 1117.
May 14, 1930, ch. 273, 46 Stat. 283.
Mar. 4, 1929, ch. 705, 45 Stat. 1565.
Mar. 7, 1938, ch. 137, 45 Stat. 203.
Jan. 12, 1927, ch. 27, 44 Stat. 938.
May 10, 1926, ch. 277, 44 Stat. 457.
June 5, 1924, ch. 264, 43 Stat. 395.
Jan. 24, 1923, ch. 42, 42 Stat. 1179.
May 24, 1922, ch. 199, 42 Stat. 557.
June 12, 1917, ch. 27, 40 Stat. 142.

Mar. 3, 1915, ch. 75, 38 Stat. 855.

### § 91. Deposit in Treasury of unearned fees and unofficial moneys

Officers of district land officers, as designated by the Secretary of the Interior are authorized, under the direction of the Secretary of the Interior or such officer as he may designate, to deposit to the credit of the Treasurer of the United States all unearned fees and unofficial moneys that have been carried upon the books of their respective offices for a period of five years or more, which sums shall be covered into the Treasury by warrant and carried to the credit of the parties from whom such fees or moneys were received, and into an appropriation account to be denominated ''Outstanding liabilities.''

(Mar. 2, 1907, ch. 2562, § 1, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officers of district land offices, as designated by the Secretary of the Interior,'' substituted for ''registers'' and ''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

APPROPRIATIONS

Effective July 1, 1935, the appropriation provided for in this section was repealed and provision was made for annual appropriations of sums necessary to meet expenditures by act June 26, 1934, ch. 756, § 17, 48 Stat. 1230, which was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1074. See section 1322 of Title 31, Money and Finance.

### § 92. Lists furnished with deposits

At the time of making such deposit the officer designated by the Secretary of the Interior shall furnish a list showing the date when the money was paid to him or to his predecessor; the names and residences of the parties; the purposes of the payments and the amounts thereof, which list shall bear the certificate of the officer that the same is correct; that the amounts are due and payable; that diligence has been exercised to return the same, and that the sums specified have remained unclaimed for a period of five years or more.

(Mar. 2, 1907, ch. 2562, § 2, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''officer designated by the Secretary of the Interior'' and ''officer'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 93. Deposit of moneys deposited by unknown parties

Amounts that appear in the accounts of a district land office as ''Moneys deposited by unknown parties'' shall also be deposited to the credit of the Treasurer of the United States, accompanied by a list showing the amount and, if possible, the date of the receipt of each item; which list shall bear the certificate of the officer designated by the Secretary of the Interior that, after careful investigation, the ownership of said moneys could not be determined, and that they have been reported in the unearned fees and unofficial moneys accounts for five years or more.

(Mar. 2, 1907, ch. 2562, § 3, 34 Stat. 1245; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''the accounts of a district land office'' substituted for ''a register's accounts'' and ''officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of 1946 Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 94. Reimbursement of sums disbursed as special disbursing agents

The Secretary of the Treasury is authorized and directed to pay, out of any unexpended balances of appropriations for contingent expenses of land offices, for the expenses of hearings in land entries and the expenses of depositing public moneys, such sums as have been or may be disbursed by officers designated by the Secretary of the Interior acting as special disbursing agents at United States land offices, before the receipt of Government funds: *Provided*, That no payment shall be made under this section in excess of the amount appropriated by the Congress for the particular purpose in each instance

and for the fiscal year in which such disbursements were made: *Provided*, That all such disbursements shall have been or shall be made in pursuance of law in carrying out departmental regulations or to meet authorizations by the Secretary of the Interior or such officer as he may designate: *Provided further*, That the accounts containing such items shall have been duly approved by the Secretary of the Interior or such officer as he may designate.

(Mar. 2, 1907, ch. 2563, 34 Stat. 1245; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, referred to receivers of public moneys. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officers designated by the Secretary of the Interior'' substituted for ''registers'' and ''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### §§95 to 98a. Repealed. Pub. L. 86–649, title II, §204(b), July 14, 1960, 74 Stat. 507

Section 95, acts Mar. 26, 1908, ch. 102, §1, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366, related to repayment of purchase moneys paid under applications rejected.

Section 96, acts Mar. 26, 1908, ch. 102, §2, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366, related to repayment of excess payments.

Section 97, acts Mar. 26, 1908, ch. 102, §3, 35 Stat. 48; Dec. 11, 1919, ch. 5, 41 Stat. 366; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to certification of amount of excess moneys and repayment.

Section 98, act Mar. 26, 1908, ch. 102, §4, as added Dec. 11, 1919, ch. 5, 41 Stat. 367, related to rules and regulations.

Section 98a, act June 27, 1930, ch. 642, 46 Stat. 822, made sections 95 to 98 of this title applicable to all payments in excess of lawful requirements made under statutes relating to disposition of public lands.

### §99. Repayment of moneys deposited and covered into Treasury

Any person or persons who shall have made payment to an officer designated by the Secretary of the Interior or to his predecessor, and the money shall have been covered into the Treasury pursuant to section 91 or 93 of this title, shall, on presenting satisfactory evidence of such payment to the Government Accountability Office, be entitled to have the same returned by the settlement of an account and the issuing of a warrant in his favor according to the practice in other cases of authorized and liquidated claims against the United States: *Provided*, That when such moneys shall remain unclaimed in the Treasury for more than five years the right to recover the same shall be barred: *Provided*, That no homestead entryman shall be required to make payment of the purchase money on any application to make a cash entry until the same shall have been approved by the officer designated by the Secretary of the Interior, but such payment shall be made within ten days after notice of such approval.

(Mar. 2, 1907, ch. 2562, §4, 34 Stat. 1245; June 10, 1921, ch. 18, title III, §304, 42 Stat. 24; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

This section, as originally enacted, related to receivers of public moneys for land districts. The office of receiver was consolidated with that of register by acts Mar. 3, 1925, and Oct. 28, 1921, under which the office of receiver was abolished. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

''Government Accountability Office'' substituted in text for ''General Accounting Office'' pursuant to section 8(b) of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance, which redesignated the General Accounting Office and any references thereto as the Government Accountability Office. Previously, ''General Accounting Office'' substituted in text for ''proper officer of the Treasury Department'' pursuant to act June 10, 1921, which transferred all powers and duties of the Comptroller, six auditors, and certain other employees of the Treasury to the General Accounting Office. See section 701 et seq. of Title 31.

### §100. Disqualification

No officer shall receive evidence in, hear, or determine any cause pending in any district land office in which cause he is interested directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law.

(Jan. 11, 1894, ch. 10, §1, 28 Stat. 26; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

This section, as originally enacted, was applicable to both registers and receivers. The office of receiver was abolished by acts Oct. 28, 1921, and Mar. 3, 1925, which consolidated the two offices. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Word ''officer'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 101. Report of disqualification; designation of officer to act

It shall be the duty of every officer so disqualified to report the fact of his disqualification to the Secretary of the Interior or such officer as he may designate as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other officer or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such officer would otherwise have possessed to act in such case.

(Jan. 11, 1894, ch. 10, § 2, 28 Stat. 26; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Word ''officer'' substituted for ''register'' and ''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 102. Attendance of witnesses

Officers of district land offices designated by the Secretary of the Interior in all matters requiring a hearing before them are authorized and empowered to issue subpoenas directing the attendance of witnesses, which subpoenas may be served by any person by delivering a true copy thereof to such witness, and when served, witnesses shall be required to attend in obedience thereto: *Provided*, That if any subpoena be served under the provisions of this section by any person other than an officer authorized by the laws of the United States, or of the State or Territory in which the depositions are taken, the service thereof shall be proved by the affidavit of the person serving the same: *Provided further*, That said subpoenas shall be served within the county in which attendance is required, and at least five days before attendance is required.

(Jan. 31, 1903, ch. 344, § 1, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The original text of this section referred to both registers and receivers, but reference to the latter was omitted in view of the abolition of such office under acts Oct. 28, 1921, and Mar. 3, 1925, which provided for the consolidation of the two offices under a register only. See, also, Transfer of Functions note below.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officers of district land offices designated by the Secretary of the Interior'' substituted for ''Registers of the land office, or either of them,'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 103. Witnesses' fees

Witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land offices are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing.

(Jan. 31, 1903, ch. 344, § 2, 32 Stat. 790.)

### § 104. Disobedience to subpoena

Any person willfully neglecting or refusing obedience to such subpoena, or neglecting or refusing to appear and testify when subpoenaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than $200, or imprisonment not to exceed ninety days, or both, at the discretion of the court: *Provided*, That if such witness has been prevented from obeying such subpoena without fault upon his part he shall not be punished under the provisions of this section.

(Jan. 31, 1903, ch. 344, § 3, 32 Stat. 790; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

CODIFICATION

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

### § 105. Depositions of witnesses residing outside county

Whenever the witness resides outside the county in which the hearing occurs any party to the proceeding may take the testimony of such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States magistrate judge, notary public, judge, or clerk of a court of record. Subpoenas for witnesses before the officer taking depositions may issue from the office of the officer designated by the Secretary of the Interior or may be issued by the officer taking the depositions, and disobedience thereof, as defined in section 104 of this title, shall also be punished;

and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpoena to appear before the officer designated by the Secretary of the Interior and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions.

(Jan. 31, 1903, ch. 344, § 4, 32 Stat. 790; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 90–578, title IV, § 402(b)(2), Oct. 17, 1968, 82 Stat. 1118; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

CODIFICATION

The original text of this section referred to both registers and receivers, but reference to the latter was omitted in view of the abolition of such office under acts Mar. 3, 1925, and Oct. 28, 1921, which provided for the consolidation of the two offices under a register only. See, also, Transfer of Functions note below.

CHANGE OF NAME

"United States magistrate judge" substituted in text for "United States magistrate" pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure. Previously, "United States magistrate" substituted for "United States commissioner" pursuant to Pub. L. 90–578. See chapter 43 (§ 631 et seq.) of Title 28.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 106. Continuing taking of depositions in behalf of opposite party

Whenever the taking of any depositions taken in pursuance of section 105 of this title is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: *Provided*, That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions of his intention to do so.

(Jan. 31, 1903, ch. 344, § 5, 32 Stat. 791.)

### § 107. Penalty for false information

If any person applies to any officer designated by the Secretary of the Interior to enter any land whatever, and the officer knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such officer shall be liable therefor, to the person so applying, for $5 for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.

(R.S. § 2247; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2247 derived from act July 4, 1836, ch. 352, § 13, 5 Stat. 112.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to "register" changed to "officer designated by the Secretary of the Interior" and "officer" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## CHAPTER 5—LAND DISTRICTS

Sec.
121. Discontinuance of land offices by President.
122. Discontinuance of land offices by Secretary of the Interior.
123. Continuance of land offices when required by public convenience.
123a. Continuation of existing land districts and offices in Alaska; change of district boundaries, or discontinuance of districts; designation and location of land offices.
124. Consolidation of land offices.
125. Annexation of discontinued district to adjacent district.
126. Change of location of land offices.
127. Change of boundaries of land districts.
128. Division or change of boundaries; continuance of business of original district.
129. Office rent and clerk hire for consolidated land offices.
130. Entry of public lands in States where no land offices exist.

### § 121. Discontinuance of land offices by President

Upon the recommendation of the Secretary of the Interior, the President may order the discontinuance of any land office and the transfer of any of its business and archives to any other land office within the same State or Territory.

(R.S. § 2252; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2252 derived from act May 30, 1862, ch. 86, § 5, 12 Stat. 409.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words "the Commissioner of the General Land Office, approved by" omitted on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

### § 122. Discontinuance of land offices by Secretary of the Interior

Whenever the quantity of public land remaining unsold in any land district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Secretary of the Interior to discontinue the land office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land office, the same shall be subject to sale at some one of the existing land offices most convenient to the district in which the land office has been discontinued, of which the Secretary of the Interior shall give notice.

(R.S. § 2248.)

CODIFICATION

R.S. § 2248 derived from act June 12, 1840, ch. 36, § 2, 5 Stat. 385.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 123. Continuance of land offices when required by public convenience

The Secretary of the Interior may continue any land district in which is situated the seat of government of any one of the States, and may continue the land office in such district, notwithstanding the quantity of land unsold in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land system in such State.

(R.S. § 2249.)

CODIFICATION

R.S. § 2249 derived from act Sept. 4, 1841, ch. 16, § 7, 5 Stat. 455.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 123a. Continuation of existing land districts and offices in Alaska; change of district boundaries, or discontinuance of districts; designation and location of land offices

Subject to the authority conferred upon the Secretary of the Interior by this section, the land districts and land offices existing in Alaska on October 9, 1942 are continued. The Secretary of the Interior is authorized and empowered in his discretion to change the boundaries of, or discontinue, any land district in Alaska, and in lieu thereof to designate such land district, or land region, as, in his opinion, is necessary for the transaction of the business relating to the public lands in the Territory and to designate or change the location of any land office for such land district or land region.

(Oct. 9, 1942, ch. 584, § 6, 56 Stat. 779.)

CODIFICATION

Section was formerly classified to section 365 of Title 48, Territories and Insular Possessions.

LAND DISTRICTS AND LAND OFFICES CONTINUED

Provisions of acts Feb. 14, 1902, ch. 17, § 1, 32 Stat. 20; Mar. 2, 1907, ch. 2537, § 1, 34 Stat. 1232, which constituted former section 365 of Title 48, Territories and Insular Possessions, and were repealed by section 7 of Act Oct. 9, 1942, which enacted this section, read as follows: "There shall be two land districts in Alaska, the boundaries of which shall be designated by the President, to be known as the Nome land district and the Fairbanks land district, with the land offices located, respectively, at Nome, Alaska, and Fairbanks, Alaska, and one other land district and land office, the location of which shall be fixed by the President."

### § 124. Consolidation of land offices

It shall be the duty of the Secretary of the Interior to consolidate the district land offices where practicable and consistent with the public interests.

(Aug. 5, 1892, ch. 380, § 1, 27 Stat. 368.)

APPROPRIATIONS

The Secretary of the Interior was required to consolidate the district land offices so as to bring the total compensation of the registers and receivers for the fiscal year 1894, within the appropriation made therefor by the sundry Civil Appropriation Act for that year, act Mar. 3, 1893, ch. 208, 27 Stat. 591, which was fixed at $520,000.

### § 125. Annexation of discontinued district to adjacent district

Whenever the cost of collecting the revenue from the sales of the public lands in any land district is as much as one-third of the whole amount of revenue collected in such district, it may be lawful for the President, if, in his opinion, not incompatible with the public interest, to discontinue the land office in such district, and to annex the same to some other adjoining land district.

(R.S. § 2250.)

CODIFICATION

R.S. § 2250 derived from act Mar. 3, 1853, ch. 97, § 1, 10 Stat. 189, 194.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

### § 126. Change of location of land offices

The President is authorized to change the location of the land offices in the several land districts established by law, and to relocate the same from time to time at such point in the district as he deems expedient.

(R.S. § 2251.)

CODIFICATION

R.S. § 2251 derived from acts Mar. 3, 1853, ch. 97, § 1, 10 Stat. 204; Mar. 3, 1853, ch. 144, 10 Stat. 244.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President by this section, see Ex. Ord. No.

10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

### § 127. Change of boundaries of land districts

The President is authorized to change and reestablish the boundaries of land districts whenever, in his opinion, the public interests will be subserved thereby, without authority to increase the number of land offices or land districts.

(R.S. § 2253.)

CODIFICATION

R.S. § 2253 derived from act June 29, 1870, ch. 171, 16 Stat. 171.

DELEGATION OF FUNCTIONS

For delegation to Secretary of the Interior of authority vested in President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

### § 128. Division or change of boundaries; continuance of business of original district

In case of the division of existing land districts by the erection of new ones, or by a change of boundaries by the President, all business in such original districts shall be entertained and transacted without prejudice or change, until the offices in the new districts are duly opened by public announcement under the direction of the Secretary of the Interior. All sales or disposals of the public lands heretofore regularly made at any land office, after such lands have been made part of another district by any Act of Congress, or by any act of the President, are confirmed, provided the same are free from conflict with prior valid rights.

(R.S. § 2254.)

CODIFICATION

R.S. § 2254 derived from act May 31, 1872, ch. 241, 17 Stat. 192.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 129. Office rent and clerk hire for consolidated land offices

The Secretary of the Interior is authorized to make a reasonable allowance for office rent for each consolidated land office; and when satisfied of the necessity therefor, to approve the employment of one or more clerks, at a reasonable per diem compensation, for such time as such clerical force is absolutely required to keep up the current public business, which clerical force shall be paid out of the surplus fees authorized to be charged by section 84[1] of this title, if any, and if no surplus exists, then out of the appropriation for incidental expenses of district land offices; but no clerk shall be so paid unless his employment has been first sanctioned by the Secretary of the Interior.

(R.S. § 2255; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 84 of this title, referred to in text, was repealed by Pub. L. 86–649, title II, § 202(b), July 14, 1960, 74 Stat. 507. See section 1734 of this title.

CODIFICATION

R.S. § 2255 derived from act Feb. 18, 1861, ch. 38, § 2, 12 Stat. 131.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''by the register'' following ''to approve the employment'' omitted on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 130. Entry of public lands in States where no land offices exist

Public lands situated in States in which there are no land offices may be entered at the Bureau of Land Management, subject to the provisions of law touching the entry of public lands; and the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record. And moneys received by the Secretary of the Interior, or such officer as he may designate, for lands entered by cash entry shall be covered into the Treasury.

(Mar. 3, 1877, ch. 102, § 1, 19 Stat. 315; June 19, 1878, ch. 329, § 1, 20 Stat. 201; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' and ''Secretary of the Interior, or such officer as he may designate,'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## CHAPTER 6—WITHDRAWAL FROM SETTLEMENT, LOCATION, SALE, OR ENTRY

Sec.
141. Repealed.
142. Rights of occupants or claimants of oil- or gas-bearing lands; exceptions to withdrawals.
143. Repealed.
144. Entries on land withdrawn as valuable for oil or gas validated.
145. Sale of lands withdrawn.
146. Patents to purchasers of lands withdrawn.
147. Disposition of proceeds of sale of withdrawn lands.
148. Repealed.
149. Exchange of private lands included in Indian reservation for other lands.
150. Withdrawals of land for Indian reservations prohibited.
151. Opening of lands restored to entry after withdrawals.

Sec.
152. Restoration of lands previously withdrawn.
153. Reservation of lands in North Dakota.
154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations.
155. Withdrawal, reservation, or restriction of public lands for defense purposes; ''public lands'' defined; exception.
156. Approval by Congress necessary for withdrawal, reservation, or restriction of over 5,000 acres for any Department of Defense project or facility.
157. Application for withdrawal, reservation, or restriction; specifications.
158. Mineral resources on withdrawn lands; disposition and exploration.

## § 141. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act June 25, 1910, ch. 421, § 1, 36 Stat. 847, authorized the withdrawal and reservation of lands for water-power sites and other purposes.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that this section is repealed effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

EX. ORD. NO. 10355. DELEGATION OF AUTHORITY

Ex. Ord. No. 10355, eff. May 26, 1952, 17 F.R. 4831, as amended by Pub. L. 101–509, title V, § 529 [title I, § 112(c)], Nov. 5, 1990, 104 Stat. 1427, 1454, provided:

SECTION 1. (a) Subject to the provisions of subsections (b), (c), and (d) of this section, I hereby delegate to the Secretary of the Interior the authority vested in the President by section 1 of the act of June 25, 1910, ch. 421, 36 Stat. 847 [this section], and the authority otherwise vested in him to withdraw or reserve lands of the public domain and other lands owned or controlled by the United States in the continental United States or Alaska for public purposes, including the authority to modify or revoke withdrawals and reservations of such lands heretofore or hereafter made.

(b) All orders issued by the Secretary of the Interior under the authority of this order shall be designated as public land orders and shall be submitted to the Division of the Federal Register, General Services Administration, for filing and for publication in the FEDERAL REGISTER.

(c) No order affecting land under the administrative jurisdiction of any executive department or agency of the Government other than the Department of the Interior shall be issued by the Secretary of the Interior under the authority of this order without the prior approval or concurrence, so far as the order affects such land, of the head of the department or agency concerned, or of such officer of the department or agency concerned as the head thereof may designate for such purpose: *Provided*, that such officer is required to be appointed by the President by and with the advice and consent of the Senate.

(d) Any disagreement between two or more executive departments or agencies with respect to any proposed withdrawal or reservation shall be referred to the Director of the Bureau of the Budget [now Office of Management and Budget] for consideration and adjustment. The Director may, in his discretion, submit the matter to the President for his determination.

SEC. 2. The Secretary of the Interior is authorized to issue such rules and regulations, and to prescribe such procedures, as he may from time to time deem necessary or desirable for the exercise of the authority delegated to him by this order.

SEC. 3. The Secretary of the Interior is authorized to redelegate the authority delegated to him by this order to one or more of the following-designated officers: the Deputy Secretary of the Interior and the Assistant Secretaries of the Interior.

SEC. 4. This order supersedes Executive Order No. 9337 of April 24, 1943, entitled ''Authorizing the Secretary of the Interior to Withdraw and Reserve Lands of the Public Domain and Other Lands Owned or Controlled by the United States''.

EX. ORD. NO. 12688. TRANSFER AUTHORITY CHOCTAWHATCHEE NATIONAL FOREST, FLORIDA

Ex. Ord. No. 12688, Aug. 15, 1989, 54 F.R. 34129, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, including Pub. L. No. 668, 76th Cong., 3d Sess., 54 Stat. 655 (1940), to ensure that excess property under the control of the Department of Defense within and adjacent to the Choctawhatchee National Forest, Florida, is transferred to the Department of Agriculture for inclusion in the National Forest, it is hereby ordered as follows:

The Secretary of Defense is hereby delegated the President's authority under Pub. L. No. 668, 76th Cong., 3d Sess., 54 Stat. 655 (1940), to transfer such property within or adjacent to the boundaries of Choctawhatchee National Forest, Florida, that is no longer required for military purposes, to the Secretary of Agriculture to be restored to national forest status. To the extent this order delegates the President's authority under Pub. L. No. 668, 76th Cong., 3d Sess., 54 Stat. 655 (1940), to the Secretary of Defense, it supersedes Executive Order No. 10355 [set out above], which delegates the President's authority to revoke withdrawals and reservations of public lands to the Secretary of the Interior. The Secretary of Defense will document the transaction by letter of transfer between the Departments. The Secretary of Defense, 30 days prior to taking any action to transfer property pursuant to this order, shall notify the Secretary of the Interior of the effective date and time for ''opening'' of the lands to relevant land laws. The authority delegated by this order may be further redelegated within the Department of Defense.

GEORGE BUSH.

## § 142. Rights of occupants or claimants of oil- or gas-bearing lands; exceptions to withdrawals

This section and section 141[1] of this title shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil- or gas-bearing lands after any withdrawal of such lands made prior to June 25, 1910: *And provided further*, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this section and section 141[1] of this title all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made.

(June 25, 1910, ch. 421, § 2, 36 Stat. 847; Aug. 24, 1912, ch. 369, 37 Stat. 497; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 141 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

CODIFICATION

Act Aug. 24, 1912, substituted ''metalliferous minerals'' for ''minerals other than coal, oil, gas, and phosphates'' in the first clause of this section, and ''June 25, 1910'' for ''the passage of this Act'' in the second proviso of this section.

In the last proviso of this section, ''national forest'' substituted for ''forest reserve'', in view of act Mar. 4, 1907, ch. 2907, 34 Stat. 1269, providing that forest reserves should be known as national forests.

The provisions of the last proviso of this section were also classified to section 471 of Title 16, Conservation.

AMENDMENTS

1976—Pub. L. 94–579 struck out provisions that all lands withdrawn under the act of June 25, 1910, be open to exploration, occupation, and purchase under the mineral laws of the United States in respect to minerals other than coal, oil, gas, and phosphates and that no national forest be created or additions thereto made to those created before Aug. 24, 1912, in Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 143. Repealed. Pub. L. 86–533, § 1(14), June 29, 1960, 74 Stat. 248

Section, act June 25, 1910, ch. 421, § 3, 36 Stat. 848, required Secretary of the Interior to report withdrawals to Congress.

### § 144. Entries on land withdrawn as valuable for oil or gas validated

Entries existing on February 7, 1925, and allowed prior to April 1, 1924, under the Stock Raising Homestead Act of December 29, 1916 (Thirty-ninth Statutes at Large, page 862) [43 U.S.C. 291 et seq.], for land withdrawn as valuable for oil or gas, but not otherwise reserved or withdrawn, are validated, if otherwise regular: *Provided*, That at date of entry the land was not within the limits of the geologic structure of a producing oil or gas field.

(Feb. 7, 1925, ch. 147, § 12, 43 Stat. 812.)

REFERENCES IN TEXT

The Stock Raising Homestead Act of December 29, 1916, referred to in text, is act Dec. 29, 1916, ch. 9, 39 Stat. 862, as amended, which was classified generally to subchapter X (§ 291 et seq.) of chapter 7 of this title and was repealed by Pub. L. 94–579, title VII, §§ 702, 704(a), Oct. 21, 1976, 90 Stat. 2787, 2792, except for sections 9 and 11 which are classified to sections 299 and 301, respectively, of this title. For complete classification of this Act to the Code, see Short Title note set out under section 291 of this title and Tables.

### § 145. Sale of lands withdrawn

Whenever in the opinion of the Secretary of the Interior any lands which have been withdrawn under the provisions of sections 141[1] and 142 of this title for the purpose of exploratory drilling to discover water supplies for irrigation or other purposes, and which have had wells or other permanent improvements placed thereon by and at the expense of the United States are no longer needed for the purpose for which they were withdrawn and improved, the Secretary of the Interior may appraise the lands, together with the improvements thereon, and thereafter sell the same to a citizen of the United States for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land.

(Jan. 26, 1921, ch. 27, § 1, 41 Stat. 1089.)

REFERENCES IN TEXT

Section 141 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

### § 146. Patents to purchasers of lands withdrawn

Upon payment of the purchase price the Secretary of the Interior is authorized by appropriate patent to convey all the right, title, and interest in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided*, That not over one hundred and sixty acres shall be sold to any one person: *Provided further*, That any patent issued hereunder shall contain a reservation to the United States of all oil, gas, coal, and other mineral.

(Jan. 26, 1921, ch. 27, § 2, 41 Stat. 1089.)

### § 147. Disposition of proceeds of sale of withdrawn lands

The moneys derived from the sale of such lands and improvements shall be disposed of as are other receipts from the sale and disposal of public lands.

(Jan. 26, 1921, ch. 27, § 3, 41 Stat. 1090.)

### § 148. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, acts June 25, 1910, ch. 431, § 13, 36 Stat. 858; June 29, 1960, Pub. L. 86–533, § 1(13), 74 Stat. 248, authorized withdrawal of lands in Indian reservations for power or reservation sites.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 149. Exchange of private lands included in Indian reservation for other lands

Any private land over which an Indian reservation has been extended by Executive order,

[1] See References in Text note below.

may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value and situated in the same State or Territory.

(Apr. 21, 1904, ch. 1402, § 1, 33 Stat. 211.)

### § 150. Withdrawals of land for Indian reservations prohibited

No public lands of the United States shall be withdrawn by Executive Order, proclamation, or otherwise, for or as an Indian reservation except by act of Congress.

(June 30, 1919, ch. 4, § 27, 41 Stat. 34.)

### § 151. Opening of lands restored to entry after withdrawals

When public lands are excluded from national forests or released from withdrawals the President may, whenever in his judgment it is proper or necessary, provide for the opening of the lands by settlement in advance of entry, by drawing, or by such other method as he may deem advisable in the interest of equal opportunity and good administration, and in doing so may provide that lands so opened shall be subject only to homestead entry by actual settlers only or to entry under the desert-land laws for a period not exceeding ninety days, the unentered lands to be thereafter subject to disposition under the public-land laws applicable thereto.

(Sept. 30, 1913, ch. 15, § 1, 38 Stat. 113.)

### § 152. Restoration of lands previously withdrawn

Where under the law the Secretary of the Interior is authorized or directed to make restoration of lands previously withdrawn he may also restrict the restoration as prescribed in section 151 of this title.

(Sept. 30, 1913, ch. 15, § 2, 38 Stat. 114.)

### § 153. Reservation of lands in North Dakota

Upon receipt of a proper deed from the State of North Dakota, executed under authority of the act of its legislative assembly, approved February 5, 1915, reconveying to the United States title to section 16, township 138 north, range 81 west, fifth principal meridian, the Secretary of the Interior is authorized to issue patents to said State for such vacant, surveyed, unreserved, unoccupied, nonmineral public lands as may be selected by said State within its boundaries, not exceeding one thousand two hundred and eighty acres in aggregate area, and said section when so reconveyed shall not be subject to settlement, location, entry, or selection under the public land laws, but shall be reserved for the use of the Department of Agriculture in carrying on experiments in dry-land agriculture at the Northern Great Plains Field Station, Mandan, North Dakota.

(July 3, 1916, ch. 219, 39 Stat. 344.)

### § 154. Vacation of withdrawals under reclamation law; lands valuable for minerals; reservation of rights, ways, and easements; rules and regulations

Where public lands of the United States have been withdrawn for possible use for construction purposes under the Federal reclamation laws, and are known or believed to be valuable for minerals and would, if not so withdrawn, be subject to location and patent under the general mining laws, the Secretary of the Interior, when in his opinion the rights of the United States will not be prejudiced thereby, may, in his discretion, open the land to location, entry, and patent under the general mining laws, reserving such ways, rights, and easements over or to such lands as may be prescribed by him and as may be deemed necessary or appropriate, including the right to take and remove from such lands construction materials for use in the construction of irrigation works, and/or the said Secretary may require the execution of a contract by the intending locator or entryman as a condition precedent to the vesting of any rights in him, when in the opinion of the Secretary same may be necessary for the protection of the irrigation interests. Such reservations or contract rights may be in favor of the United States or irrigation concerns cooperating or contracting with the United States and operating in the vicinity of such lands. The Secretary may prescribe the form of such contract which shall be executed and acknowledged and recorded in the county records and United States local land office by any locator or entryman of such land before any rights in their favor attach thereto, and the locator or entryman executing such contract shall undertake such indemnifying covenants and shall grant such rights over such lands as in the opinion of the Secretary may be necessary for the protection of Federal or private irrigation in the vicinity. Notice of such reservation or of the necessity of executing such prescribed contract shall be filed in the Bureau of Land Management and in the appropriate local land office, and notations thereof shall be made upon the appropriate tract books, and any location or entry thereafter made upon or for such lands, and any patent therefor shall be subject to the terms of such contract and/or to such reserved ways, rights, or easements and such entry or patent shall contain a reference thereto.

The Secretary of the Interior may prescribe such rules and regulations as may be necessary to enable him to enforce the provisions of this section.

(Apr. 23, 1932, ch. 134, §§ 1, 2, 47 Stat. 136, 137; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 155. Withdrawal, reservation, or restriction of public lands for defense purposes; "public lands" defined; exception

Notwithstanding any other provisions of law, except in time of war or national emergency hereafter declared by the President or the Congress, on and after February 28, 1958 the provisions hereof shall apply to the withdrawal and reservation for, restriction of, and utilization by, the Department of Defense for defense purposes of the public lands of the United States, including public lands in the Territories of Alaska and Hawaii: *Provided*, That—

(1) for the purposes of this Act, the term ''public lands'' shall be deemed to include, without limiting the meaning thereof, Federal lands and waters of the Outer Continental Shelf, as defined in section 1331 of this title, and Federal lands and waters off the coast of the Territories of Alaska and Hawaii;

(2) nothing in this Act shall be deemed to be applicable to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the coast of the Territory of Alaska reserved for use of the military departments prior to August 7, 1953, and

(4) nothing in this section, section 156, or section 157 of this title shall be deemed to be applicable either to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which subsequent to such expiration have been and are now used by the military departments with the concurrence of the Department of the Interior, or to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges in the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.

(Pub. L. 85–337, § 1, Feb. 28, 1958, 72 Stat. 27.)

REFERENCES IN TEXT

This Act, referred to in pars. (1), (2), and (3), is Pub. L. 85–337, Feb. 28, 1958, 72 Stat. 27, which enacted sections 155 to 158 of this title and section 2671 of Title 10, Armed Forces, and amended section 472 of former Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Tables.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

### § 156. Approval by Congress necessary for withdrawal, reservation, or restriction of over 5,000 acres for any Department of Defense project or facility

No public land, water, or land and water area shall, except by Act of Congress, on and after February 28, 1958 be (1) withdrawn from settlement, location, sale, or entry for the use of the Department of Defense for defense purposes; (2) reserved for such use; or (3) restricted from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], if such withdrawal, reservation, or restriction would result in the withdrawal, reservation, or restriction of more than five thousand acres in the aggregate for any one defense project or facility of the Department of Defense since February 28, 1958, or since the last previous Act of Congress which withdrew, reserved, or restricted public land, water, or land and water area for that project or facility, whichever is later.

(Pub. L. 85–337, § 2, Feb. 28, 1958, 72 Stat. 28.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in text, is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

### § 157. Application for withdrawal, reservation, or restriction; specifications

Any application filed on and after February 28, 1958 for a withdrawal, reservation, or restriction, the approval of which will, under section 156 of this title, require an Act of Congress, shall specify—

(1) the name of the requesting agency and intended using agency;

(2) location of the area involved, to include a detailed description of the exterior boundaries and excepted areas, if any, within such proposed withdrawal, reservation, or restriction;

(3) gross land and water acreage within the exterior boundaries of the requested withdrawal, reservation, or restriction, and net public land, water, or public land and water acreage covered by the application;

(4) the purpose or purposes for which the area is proposed to be withdrawn, reserved, or restricted, or if the purpose or purposes are classified for national security reasons, a statement to that effect;

(5) whether the proposed use will result in contamination of any or all of the requested withdrawal, reservation, or restriction area, and if so, whether such contamination will be permanent or temporary;

(6) the period during which the proposed withdrawal, reservation, or restriction will continue in effect;

(7) whether, and if so to what extent, the proposed use will affect continuing full operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources, timber and other material resources, grazing resources, fish and wildlife resources, water resources, and scenic, wilderness, and recreation and other values; and

(8) if effecting the purpose for which the area is proposed to be withdrawn, reserved, or restricted, will involve the use of water in any State, whether, subject to existing rights

under law, the intended using agency has acquired, or proposes to acquire, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water.

(Pub. L. 85–337, § 3, Feb. 28, 1958, 72 Stat. 28.)

### § 158. Mineral resources on withdrawn lands; disposition and exploration

All withdrawals or reservations of public lands for the use of any agency of the Department of Defense, except lands withdrawn or reserved specifically as naval petroleum, naval oil shale, or naval coal reserves, heretofore or hereafter made by the United States, shall be deemed to be subject to the condition that all minerals, including oil and gas, in the lands so withdrawn or reserved are under the jurisdiction of the Secretary of the Interior and there shall be no disposition of, or exploration for, any minerals in such lands except under the applicable public land mining and mineral leasing laws: *Provided*, That no disposition of, or exploration for, any minerals in such lands shall be made where the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the lands so withdrawn or reserved.

(Pub. L. 85–337, § 6, Feb. 28, 1958, 72 Stat. 30.)

## CHAPTER 7—HOMESTEADS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
161 to 176. Repealed or Transferred.
177. Patents for lands in New Mexico held under color of title.
178. Patents for lands in New Mexico; lands contiguous to Spanish or Mexican land grants.
179, 180. Repealed.

SUBCHAPTER II—RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

181 to 191. Repealed.

SUBCHAPTER III—LANDS SUBJECT TO ENTRY

201 to 208. Repealed.
209. Extension of public-land laws to certain lands in Oklahoma.
210. Recognition of equitable claims on certain lands in Oklahoma; validation of homestead entries.

SUBCHAPTER IV—LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

211 to 224. Repealed.

SUBCHAPTER V—LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE OR NONCULTIVATION

231 to 243a. Repealed.

SUBCHAPTER VI—FINAL PROOF GENERALLY

251 to 256b. Repealed.

SUBCHAPTER VII—PAYMENTS AND REFUNDS

261 to 263. Repealed.

SUBCHAPTER VIII—ALASKA HOMESTEADS

270 to 270–11. Repealed.
270–12. Disposal by United States of coal, oil, or gas deposits reserved to United States; entry, reentry, etc., on lands for prospecting, mining, and removal.
Sec.
270–13 to 270–17. Repealed.

SUBCHAPTER IX—SOLDIERS' AND SAILORS' HOMESTEAD

271 to 284. Repealed.

SUBCHAPTER X—STOCK-RAISING HOMESTEAD

291 to 298. Repealed.
299. Reservation of coal and mineral rights.
300. Repealed.
301. Rules and regulations.
302. Repealed.

SUBCHAPTER I—GENERAL PROVISIONS

### §§ 161 to 164. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 161, R.S. § 2289; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097, related to entry of unappropriated public lands.

Section 162, R.S. § 2290; Mar. 3, 1891, ch. 561, § 5, 26 Stat. 1097; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to application for entry on public lands, and contents for affidavit for application.

Section 163, R.S. § 2295; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to record of application, registration, and return to Bureau of Land Management.

Section 164, R.S. § 2291; June 6, 1912, ch. 153, 37 Stat. 123, related to issuance, etc., of certificate or patent for entered lands.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 165. Transferred

CODIFICATION

Section, act Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098, which related to suspension of entries for correction of clerical errors, was transferred to section 1165 of this title.

### §§ 166 to 175. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 166, acts May 14, 1880, ch. 89, § 3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267, related to time for settlers to file application and for perfection of entry, marriage of entrywoman, and preferential right of entry.

Section 167, acts Apr. 6, 1914, ch. 51, 38 Stat. 312; Mar. 1, 1921, ch. 90, 41 Stat. 1193, related to marriage of entryman to entrywoman.

Section 168, act Oct. 17, 1914, ch. 325, 38 Stat. 740, related to marriage of entrywoman to alien.

Section 169, R.S. § 2297; Mar. 3, 1881, ch. 153, 21 Stat. 511; June 6, 1912, ch. 153, 37 Stat. 124; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to failure to establish residence and reversion of entered lands to Federal Government.

Section 170, act Oct. 22, 1914, ch. 335, 38 Stat. 766, related to rights of wife on abandonment by husband.

Section 171, R.S. § 2292, related to rights inuring to infant children on death of both mother and father.

Section 172, act June 8, 1880, ch. 136, 21 Stat. 166; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to effect of insanity of settlers upon claims.

Section 173, R.S. § 2301; Mar. 3, 1891, ch. 561, § 6, 26 Stat. 1098; June 3, 1896, ch. 312, § 2, 29 Stat. 197, related to commutations of entries after 14 months from date of settlement.

Section 174, R.S. § 2288; Mar. 3, 1891, ch. 561, §§ 3, 4, 26 Stat. 1097; Mar. 3, 1905, ch. 1424, 33 Stat. 991, related to right to transfer claims.

Section 175, R.S. § 2296; Apr. 28, 1922, ch. 155, 42 Stat. 502, related to exemption from execution of homestead land.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 176. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Mar. 2, 1895, ch. 174, §§ 1–3, 28 Stat. 744, provided for appointment of court commissioners for certain Territories.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 177. Patents for lands in New Mexico held under color of title

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, not known to be mineral, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizen: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented under this section: *Provided further*, That the term ''citizen'' as used in this section shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof.

(June 8, 1926, ch. 501, 44 Stat. 709.)

### § 178. Patents for lands in New Mexico; lands contiguous to Spanish or Mexican land grants

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract or tracts of public land, contiguous to a Spanish or Mexican land grant, in the State of New Mexico, not exceeding in the aggregate one hundred and sixty acres, has or have been held in good faith and in peaceful, adverse possession by a citizen of the United States, his ancestors or grantors, for more than twenty years under claim or color of title, and that valuable improvements have been placed on such land, or some part thereof has been reduced to cultivation, the Secretary may, in his discretion, upon the payment of $1.25 per acre, cause a patent or patents to issue for such land to any such citizens: *Provided*, That where the area or areas so held by any such citizen is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres in the aggregate, to any such citizen may be patented hereunder: *Provided further*, That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *Provided further*, That the term ''citizen'', as used in this section, shall be held to include a corporation organized under the laws of the United States or any State or Territory thereof.

(Feb. 23, 1932, ch. 52, 47 Stat. 53.)

### §§ 179, 180. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 179, act May 17, 1900, ch. 479, § 1, 31 Stat. 179, related to free homesteads to settlers, commutation rights, and payment to Indians.

Section 180, act Jan. 26, 1901, ch. 180, 31 Stat. 740, related to extension of right of settlers to commute entry.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER II—RIGHT OF PARTICULAR PERSONS TO MAKE ENTRY

### § 181. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act June 5, 1900, ch. 716, § 3, 31 Stat. 270, provided that a person making an entry which was lost or forfeited should be entitled to benefits of homestead laws as though the former entry had not been made. See section 182 of this title.

### §§ 182 to 191. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 182, act Sept. 5, 1914, ch. 294, 38 Stat. 712, related to entry after forfeiture of prior entry without fault.

Section 183, R.S. § 2300; Aug. 31, 1918, ch. 166, § 8, 40 Stat. 957; Sept. 13, 1918, ch. 173, 40 Stat. 960, related to minor veterans, service in military establishment, and relinquishment of entries.

Section 184, R.S. § 2302, prohibited discrimination based on race or color in construction or execution of certain laws.

Section 185, acts May 14, 1880, ch. 89, § 2, 21 Stat. 141; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; July 26, 1892, ch. 251, 27 Stat. 270; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to preference right of entry of successful contestants.

Sections 186, acts Feb. 14, 1920, ch. 76, §§ 1, 2, 41 Stat. 434, 435; Jan. 21, 1922, ch. 32, §§ 1, 2, 42 Stat. 358; Dec. 28, 1922, ch. 19, 42 Stat. 1067; June 12, 1930, ch. 471, 46 Stat. 580, related to preference right of entry of veterans, and promulgation of rules and regulations.

Section 187, act Feb. 25, 1925, ch. 326, 43 Stat. 981, related to entrants on ceded Indian reservations.

Section 187a, act June 21, 1934, ch. 690, 48 Stat. 1185, related to new homestead entry on ceded Indian reservations.

Section 187b, act May 22, 1902, ch. 821, § 2, 32 Stat. 203, related to second homestead entry by certain settlers.

Section 188, act June 5, 1900, ch. 716, § 3, 31 Stat. 270, related to purchaser of Flathead Indian land, Montana.

Section 189, act Mar. 3, 1875, ch. 131, § 15, 18 Stat. 420, related to Indians abandoning tribal relations and consequences thereof.

Section 190, act July 4, 1884, ch. 180, § 1, 23 Stat. 96, related to patents for Indians located on public lands.

Section 190a, act Mar. 1, 1933, ch. 160, § 1, 47 Stat. 1418, related to Indian allotments or homesteads in San Juan County, Utah.

Section 191, R.S. §§ 2310, 2311, related to entry, etc., rights, of Stockbridge Munsee Indians.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER III—LANDS SUBJECT TO ENTRY

### §§ 201 to 208. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 201, R.S. § 2302, prohibited entry and settlement of mineral lands under this chapter.

Section 202, acts May 14, 1880, ch. 89, § 1, 21 Stat. 140; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to relinquished entries.

Section 203, acts June 13, 1902, ch. 1080, §§ 1–3, 32 Stat. 384; Mar. 4, 1907, ch. 2907, 34 Stat. 1269, related to applicability of homestead laws to Ute Indian Reservation in Colorado.

Section 204, act Mar. 3, 1879, ch. 191, 20 Stat. 472, related to entries on even sections within railroad and other grants.

Section 205, act July 1, 1879, ch. 60, 21 Stat. 46, related to entries on odd sections within railroad and other grants in Missouri and Arkansas.

Section 206, act May 6, 1886, ch. 88, 24 Stat. 22, related to patents for additional entries within railway limits.

Section 207, act Aug. 21, 1916, ch. 361, 39 Stat. 518, authorized disposition of all agricultural lands within military reservations in Nevada under homestead and desert-land laws.

Section 208, act June 3, 1924, ch. 240, 43 Stat. 357, authorized acquisition of all unreserved public lands within the Columbia or Moses Reserve in Washington to be acquired under laws applicable to public domain.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 209. Extension of public-land laws to certain lands in Oklahoma

The public-land laws of the United States be, and the same are, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the Act of May 4, 1896 (29 Stat. 113): *Provided*, That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law.

(June 22, 1948, ch. 605, § 1, 62 Stat. 576.)

REFERENCES IN TEXT

The public-land laws of the United States, referred to in text, are classified generally to this title.

Act of May 4, 1896, referred to in text, is act May 4, 1896, ch. 155, 29 Stat. 113, which is not classified to the Code.

### § 210. Recognition of equitable claims on certain lands in Oklahoma; validation of homestead entries

The Secretary of the Interior is authorized and directed to recognize equitable claims to such lands based on settlement made prior to January 1, 1934, and all homestead entries of such lands, the allowance of which was erroneous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are validated if otherwise regular, as of the date of the regular application.

(June 22, 1948, ch. 605, § 2, 62 Stat. 576.)

## SUBCHAPTER IV—LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

### §§ 211 to 224. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 211, R.S. § 2298, related to limitation of amount of homestead entry.

Section 212, acts Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101, related to limitation of aggregate amount of entries.

Section 213, acts Apr. 28, 1904, ch. 1776, §§2, 3, 33 Stat. 527; Aug. 3, 1950, ch. 521, 64 Stat. 398, related to additional entry on land contiguous to former entry of less than quarter section.

Section 214, acts Mar. 2, 1889, ch. 381, §6, 25 Stat. 854; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to additional entry after final proof on entry on less than quarter section.

Section 215, act Feb. 20, 1917, ch. 98, 39 Stat. 925, related to additional entry after patent on entry for less than quarter section.

Section 216, act Mar. 4, 1921, ch. 162, §1, 41 Stat. 1433, related to validation of additional entry after patent.

Section 217, act June 5, 1900, ch. 716, §2, 31 Stat. 269, related to additional entry after commutation of former entry.

Section 218, acts Feb. 19, 1909, ch. 160, §§1–6, 35 Stat. 639; June 6, 1912, ch. 153, 37 Stat. 123; June 13, 1912, ch. 166, 37 Stat. 132; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 84, 38 Stat. 953; Mar. 3, 1915, ch. 91, 38 Stat. 957; Mar. 4, 1915, ch. 150, §2, 38 Stat. 1163; July 3, 1916, ch. 220, 39 Stat. 344, set forth provisions relating to enlarged entries on specified nonmineral, nonirrigable lands in certain States.

Section 219, acts June 17, 1910, ch. 298, §§1–6, 36 Stat. 531, 532; Feb. 11, 1913, ch. 39, 37 Stat. 666; Mar. 3, 1915, ch. 91, 38 Stat. 957; Sept. 5, 1916, ch. 440, 39 Stat. 724; Aug. 10, 1917, ch. 52, §10, 40 Stat. 275, set forth provisions relating to enlarged entries on specified nonmineral, nonirrigable lands in Idaho.

Section 220, act Mar. 4, 1915, ch. 150, §1, 38 Stat. 1162, 1163; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set forth procedures for applications for entries under sections 218 and 219 of this title.

Section 221, act Mar. 4, 1915, ch. 150, §2, 38 Stat. 1163, was transferred to part of section 218 of this title, and subsequently repealed.

Section 222, act Mar. 4, 1923, ch. 245, §1, 42 Stat. 1445, authorized additional entries by homestead entrymen on lands in national forests in the States covered by former sections 218 and 219 of this title.

Section 223, acts May 14, 1880, ch. 89, §3, 21 Stat. 141; June 6, 1900, ch. 821, 31 Stat. 683; Aug. 9, 1912, ch. 280, 37 Stat. 267, authorized preference of settlers to entries under Enlarged Homestead Act for lands covered by former sections 218 and 219 of this title.

Section 224, acts Apr. 28, 1904, ch. 1801, §§1–3, 33 Stat. 547, 548; Mar. 2, 1907, ch. 2527, §§1–3, 34 Stat. 1224; May 29, 1908, ch. 220, §7, 35 Stat. 466; Aug. 24, 1912, ch. 371, 37 Stat. 499, extended limitation on entries within certain boundaries in Nebraska.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER V—LEAVES OF ABSENCE AND EXCUSES FOR NONRESIDENCE OR NONCULTIVATION

### §§ 231 to 240. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 231, acts Aug. 22, 1914, ch. 270, 38 Stat. 704; Feb. 25, 1919, ch. 21, 40 Stat. 1153; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to optional leaves of absence and proof of commutation.

Section 232, act July 3, 1916, ch. 214, 39 Stat. 341, related to settlers on unsurveyed land.

Section 233, acts Sept. 29, 1919, ch. 64, 41 Stat. 288; Apr. 6, 1922, ch. 122, §2, 42 Stat. 491, related to residence of persons receiving treatment for wounds.

Section 234, acts Mar. 2, 1889, ch. 381, §3, 25 Stat. 854; Dec. 29, 1894, ch. 14, 28 Stat. 599; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to destruction or failure of crops, sickness, or unavoidable casualty.

Section 235, act July 1, 1879, ch. 63, §1, 21 Stat. 48; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to destruction or injury to crops by grasshoppers.

Section 236, act Dec. 20, 1917, ch. 6, 40 Stat. 430, allowed persons who filed applications for homestead entry prior to Dec. 20, 1917, a leave of absence from their land during pendency of war with Germany for purpose of performing farm labor.

Section 237, act July 24, 1919, ch. 26, 41 Stat. 271, excused entrymen from residence during drought in 1919.

Section 237a, act Mar. 2, 1932, ch. 69, 47 Stat. 59, excused entrymen from residence during drought period of 1929 to 1932.

Section 237b, act May 21, 1934, ch. 320, 48 Stat. 787, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where absence was due to economic conditions in 1932, 1933 or 1934.

Section 237c, act May 22, 1935, ch. 135, 49 Stat. 286, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where absence was due to economic conditions in 1935.

Section 237d, acts Aug. 19, 1935, ch. 560, 49 Stat. 659; Mar. 31, 1938, ch. 57, 52 Stat. 149, related to cultivation requirement for entered lands.

Section 237e, act Apr. 20, 1936, ch. 239, §1, 49 Stat. 1235, excused entrymen from compliance with requirements of homestead laws as to residence, cultivation, improvements, expenditures or purchase money where absence was due to economic conditions in 1936.

Section 237f, act July 30, 1956, ch. 778, §1, 70 Stat. 715, related to absence during 1956 to 1959 due to economic conditions and protection of rights of entryman.

Section 237g, act July 30, 1956, ch. 778, §2, 70 Stat. 716, related to homestead or desert land applications on file as of Mar. 1, 1956, and entries and rights of United States.

Section 237h, act July 30, 1956, ch. 778, §4, 70 Stat. 716, set forth lands subject to protection of rights of entryman.

Section 238, acts Mar. 1, 1921, ch. 102, §1, 41 Stat. 1202; Apr. 7, 1922, ch. 125, 42 Stat. 492, related to excusing residence and cultivation, etc., requirements for disabled veterans.

Section 239, R.S. §2308, related to service in Army, Navy, etc., as equivalent to residence.

Section 240, acts June 16, 1898, ch. 458, 30 Stat. 473; Aug. 29, 1916, ch. 420, 39 Stat. 671, related to service in time of war as equivalent to residence and cultivation.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### §§ 241, 242. Repealed. Oct. 17, 1940, ch. 888, article V, § 503(3), 54 Stat. 1187

Section 241, act July 28, 1917, ch. 44, § 1, 40 Stat. 248, related to residence requirements of entrymen in military service during war.

Section 242, act July 28, 1917, ch. 44, § 2, 40 Stat. 248, related to widows and children of entrymen who died in military service during war.

### §§ 243, 243a. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 243, act Apr. 7, 1930, ch. 108, 46 Stat. 144, related to military service in certain Indian wars as equivalent to residence and cultivation.

Section 243a, act Mar. 3, 1933, ch. 198, 47 Stat. 1424, related to extension of credits for military service in certain Indian wars to widows and issuance of patents to minor children on death of mother.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER VI—FINAL PROOF GENERALLY

### §§ 251 to 256b. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 251, act Mar. 3, 1879, ch. 192, 20 Stat. 472; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to notice of intention to make final proof.

Section 252, act Mar. 2, 1889, ch. 381, § 7, 25 Stat. 855, related to time of taking testimony for final proof in case of unavoidable delay.

Section 253, act June 3, 1878, ch. 152, 20 Stat. 91, related to publication of notice of contest.

Section 254, R.S. § 2294; May 26, 1890, ch. 355, 26 Stat. 121; Mar. 3, 1893, ch. 208, 27 Stat. 593; Mar. 11, 1902, ch. 182, 32 Stat. 63; Mar. 4, 1904, ch. 394, 33 Stat. 59; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Feb. 23, 1923, ch. 105, 42 Stat. 1281; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Oct. 17, 1968, Pub. L. 90–578, title IV, § 402(b)(2), 82 Stat. 1118, related to officers before whom affidavits or proofs may be made, perjury, and fees.

Section 255, R.S. § 2293; Oct. 6, 1917, ch. 86, 40 Stat. 391; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to affidavits taken by commanding officer for person in military or naval service.

Section 256, act Mar. 4, 1913, ch. 149, § 1, 37 Stat. 925, related to election as to law under which final proof may be made.

Section 256a, acts May 13, 1932, ch. 178, §§ 1, 2, 47 Stat. 153; June 16, 1933, ch. 99, 48 Stat. 274; July 26, 1935, ch. 419, 49 Stat. 504; June 16, 1937, ch. 361, 50 Stat. 303, related to extension of time for offering final proof, and promulgation of rules and regulations.

Section 256b, act Aug. 27, 1935, ch. 770, 49 Stat. 909, related to final proof by disabled World War I veterans.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER VII—PAYMENTS AND REFUNDS

### § 261. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, acts Sept. 30, 1890, No. 59, 26 Stat. 684; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to time for payments and extension of time.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 262. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act Mar. 2, 1907, ch. 2568, 34 Stat. 1248, provided for refund of excess payments. See section 1374 of this title.

### § 263. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, acts June 16, 1880, ch. 244, §§ 1–4, 21 Stat. 287; Apr. 18, 1904, No. 25, 33 Stat. 589; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to cancellation of entries and repayment of fees.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER VIII—ALASKA HOMESTEADS

### § 270. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, acts May 14, 1898, ch. 299, § 1, 30 Stat. 409; Mar. 3, 1903, ch. 1002, 32 Stat. 1028; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Apr. 29, 1950, ch. 137, § 1, 64 Stat. 94; Aug. 3, 1955, ch. 496, § 1, 69 Stat. 444, set forth provisions relating to applicability of homestead laws to Alaska. Section was formerly classified to section 371 of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 270–1 to 270–3. Repealed. Pub. L. 92–203, § 18(a), Dec. 18, 1971, 85 Stat. 710

Section 270–1, acts May 17, 1906, ch. 2469, § 1, 34 Stat. 197; Aug. 2, 1956, ch. 891, § 1(a)–(d), 70 Stat. 954, authorized making of homestead allotments to native Indians, Aleuts, or Eskimos and provided for conveyance of allotted lands. Section was formerly classified to section 357 of Title 48, Territories and Insular Possessions.

Section 270–2, act May 17, 1906, ch. 2469, § 2, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, permitted allotments of land in national forests if land was certified as chiefly valuable for agricultural or grazing uses. Section was formerly classified to section 357a of Title 48.

Section 270–3, act May 27, 1906, ch. 2469, § 3, as added Aug. 2, 1956, ch. 891, § 1(e), 70 Stat. 954, prohibited making of an allotment unless person made satisfactory proof of substantially continuous use and occupancy of land for five years. Section was formerly classified to section 357b of Title 48.

### § 270–4. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Oct. 28, 1921, ch. 114 § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to affidavits, and filing, publishing, and posting proof of claims.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### §§ 270–5 to 270–10. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 270–5, act Apr. 29, 1950, ch. 137, § 2, 64 Stat. 95, required filing of notice of location of settlement claims for public lands in Alaska. Section was formerly classified to section 371a of Title 48, Territories and Insular Possessions.

Section 270–6, act Apr. 29, 1950, ch. 137, § 3, 64 Stat. 95, set forth effects of failure to file notice of settlement claim. Section was formerly classified to section 371b of Title 48.

Section 270–7, acts Apr. 29, 1950, ch. 137, § 4, 64 Stat. 95; July 11, 1956, ch. 571, § 2, 70 Stat. 529, required final or commutation proof on unsurveyed land as basis for free survey. Section was formerly classified to section 371c of Title 48.

Section 270–8, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, set forth the amount of homestead entries for every qualified person. Section was formerly classified to section 373 of Title 48.

Section 270–9, acts July 8, 1916, ch. 228, § 1, 39 Stat. 352; June 28, 1918, ch. 110, 40 Stat. 632, removed bar of former entry in any other State or Territory as bar to homestead entry in Alaska. Section was formerly classified to section 374 of Title 48.

Section 270–10, act July 8, 1916, ch. 228, § 2, as added June 28, 1918, ch. 110, 40 Stat. 633; amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; July 11, 1956, ch. 571, § 1, 70 Stat. 528, set forth requirements for entry on unsurveyed lands. Section was formerly classified to section 375 of Title 48.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 270–11. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2787

Section, acts Mar. 8, 1922, ch. 96, § 1, 42 Stat. 415; Aug. 23, 1958, Pub. L. 85–725, § 1, 72 Stat. 730, related to entry on land containing coal, oil, or gas.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 270–12. Disposal by United States of coal, oil, or gas deposits reserved to United States; entry, reentry, etc., on lands for prospecting, mining, and removal

The coal, oil, or gas deposits reserved to the United States in accordance with the act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270–11 et seq.), as added to by the Act of August 17, 1961 (75 Stat. 384; 43 U.S.C. 270–13), and amended by the Act of October 3, 1962 (76 Stat. 740; 43 U.S.C. 270–13), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same, may reenter and occupy so much of the surface thereof incident to the min-

ing and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided further, That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.

(Mar. 8, 1922, ch. 96, §2, 42 Stat. 416; Pub. L. 85–725, §2, Aug. 23, 1958, 72 Stat. 730; Pub. L. 94–579, title VII, §703(c), Oct. 21, 1976, 90 Stat. 2791.)

REFERENCES IN TEXT

Act of March 8, 1922 and this Act, referred to in text, is act Mar. 8, 1922, ch. 96, 42 Stat. 415, as amended, which is classified to sections 270–11 to 270–13 of this title. The provisions added by the act of Aug. 17, 1961, and amended by the act of Oct. 3, 1962 were classified to section 270–13 of this title. Sections 270–11 and 270–13 of this title were repealed by section 703(a) of Pub. L. 94–579. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 377 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1976—Pub. L. 94–579 substituted provisions relating to disposal by United States of coal, oil, or gas deposits reserved to the United States, applicability of statutory provisions to such disposal, and entry, reentry, etc., on lands for prospecting, mining, and removal of deposits, for provisions relating to patent for land entered under section 270–11 of this title, reservation to the patented land, disposal of reserved coal, oil, or gas deposits, and entry, reentry, etc., on lands for prospecting, mining, and removal of deposits.

1958—Pub. L. 85–725 struck out ''*And provided further*, That nothing herein contained shall be held or construed to authorize the entry or disposition, under section 274 of this title, or under Acts amendatory thereof or supplemental thereto, of withdrawn or classified coal, oil, or gas lands or of lands valuable for coal, oil, or gas''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 703(c) of Pub. L. 94–579 provided that the amendment made by that section is effective on and after tenth anniversary of date of approval of this Act, 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.

### §§ 270–13 to 270–17. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 270–13, act Mar. 8, 1922, ch. 96, §3, as added Aug. 17, 1961, Pub. L. 87–147, 75 Stat. 384; amended Oct. 3, 1962, Pub. L. 87–742, 76 Stat. 740, authorized sale or other disposition of Alaskan lands containing coal, oil, or gas deposits. Section was formerly classified to section 377a of Title 48, Territories and Insular Possessions.

Section 270–14, act July 8, 1916, ch. 228, §3, formerly §2, 39 Stat. 352, renumbered June 28, 1918, ch. 110, 40 Stat. 633, excepted certain lands in Alaska from homestead entry and settlement. Section was formerly classified to section 378 of Title 48.

Section 270–15, acts Apr. 13, 1926, ch. 121, §1, 44 Stat. 243; Apr. 29, 1950, ch. 134, §3, 64 Stat. 93, related to claims and rectangular system of surveys and departure for local or topographic conditions.

Section 270–16, acts Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; Apr. 13, 1926, ch. 121, §2, 44 Stat. 244; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to additional entries by soldiers.

Section 270–17, act Apr. 13, 1926, ch. 121, §3, 44 Stat. 244, related to disposition of deposit of estimated cost of work incident to survey, and promulgation of rules and regulations.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER IX—SOLDIERS' AND SAILORS' HOMESTEAD

### §§ 271 to 284. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 271, R.S. §2304; Mar. 1, 1901, ch. 674, 31 Stat. 847, related to soldiers and sailors entitled to make entry.

Section 272, R.S. §2305; Mar. 1, 1901, ch. 674, 31 Stat. 847; Apr. 6, 1922, ch. 122, §1, 42 Stat. 491, related to deduction of military and naval service from time required to perfect title, and rights of widows and children of veterans.

Section 272a, acts Feb. 25, 1919, ch. 37, 40 Stat. 1161; Dec. 28, 1922, ch. 19, 42 Stat. 1067, related to applicability of sections 271 and 272 of this title to military and naval operations on Mexican border or in World War I.

Section 273, act Apr. 6, 1922, ch. 122, §1, 42 Stat. 491, related to veterans receiving compensation for wounds or disability.

Section 274, R.S. §2306, related to additional entry by veteran.

Section 275, act Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to invalidity of additional entries, and commutation.

Section 276, act Aug. 18, 1894, ch. 301, §1, 28 Stat. 397, related to issuance of additional homestead certificates.

Section 277, R.S. §2309, related to additional entry by agent.

Section 278, R.S. §2307; Feb. 25, 1919, ch. 37, 40 Stat. 1161; Sept. 21, 1922, ch. 357, 42 Stat. 990, set forth rights of veteran's widow to make entry, and rights of children upon her death.

Section 279, acts Sept. 27, 1944, ch. 421, §1, 58 Stat. 747; June 25, 1946, ch. 474, 60 Stat. 308; May 31, 1947, ch. 88, §1, 61 Stat. 123; June 18, 1954, ch. 306, §1(a), (b), 68 Stat. 253, set forth preference rights of entry of World War II or Korean conflict veterans.

Section 280, acts Sept. 27, 1944, ch. 421, §2, 58 Stat. 748; May 31, 1947, ch. 88, §2, 61 Stat. 123, related to rights of dependents of World War II or Korean conflict veterans.

Section 281, act Sept. 27, 1944, ch. 421, §3, 58 Stat. 748, related to death of World War II or Korean conflict veteran as affecting patent rights of minor children.

Section 282, acts Sept. 27, 1944, ch. 421, §4, 58 Stat. 748; May 31, 1947, ch. 88, §3, 61 Stat. 124; June 18, 1954, ch.

306, § 1(c), 68 Stat. 254, related to rights of World War II or Korean conflict veteran on revocation of withdrawal order.

Section 283, acts Sept. 27, 1944, ch. 421, § 6, formerly § 5, 58 Stat. 748, renumbered § 6, June 3, 1948, ch. 399, 62 Stat. 305, related to promulgation of rules and regulations respecting preference right of entry of World War II or Korean conflict veteran.

Section 284, act Sept. 27, 1944, ch. 421, § 5, as added June 3, 1948, ch. 399, 62 Stat. 305, defined ''homestead'' for purposes of preference right of entry of World War II or Korean conflict veteran.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER X—STOCK-RAISING HOMESTEAD

### §§ 291 to 298. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 291, acts Dec. 29, 1916, ch. 9, § 1, 39 Stat. 862; Feb. 28, 1931, ch. 328, 46 Stat. 1454; June 9, 1933, ch. 53, 48 Stat. 119, related to entry on unappropriated, unreserved lands, and lands excepted from entry.

Section 292, acts Dec. 29, 1916, ch. 9, § 2, 39 Stat. 862; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; June 6, 1924, ch. 274, 43 Stat. 469; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to designation of lands subject to entry, and application thereof.

Section 293, acts Dec. 29, 1916, ch. 9, § 3, 39 Stat. 863; Oct. 25, 1918, ch. 195, 40 Stat. 1016, related to persons entitled to make entries and effect of entries.

Section 294, acts Dec. 29, 1916, ch. 9, § 4, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287, related to additional entries and amount of entry.

Section 295, acts Dec. 29, 1916, ch. 9, § 5, 39 Stat. 863; Sept. 29, 1919, ch. 63, 41 Stat. 287, related to persons entitled to make additional entries.

Section 296, act Dec. 29, 1916, ch. 9, § 6, 39 Stat. 863, related to heads of families, etc., and relinquishment or reconveyance of land.

Section 297, act Dec. 29, 1916, ch. 9, § 7, 39 Stat. 864, related to applicability of commutation provisions to entries.

Section 298, act Dec. 29, 1916, ch. 9, § 8, 39 Stat. 864, set forth provisions relating to additional entries and preferential rights.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 299. Reservation of coal and mineral rights

#### (a) General provisions

All entries made and patents issued under the provisions of this subchapter shall be subject to and contain a reservation to the United States of all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this subchapter, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entryman or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the officer designated by the Secretary of the Interior of the local land office of the district wherein the land is situate, subject to appeal to the Secretary of the Interior or such officer as he may designate: *Provided*, That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this subchapter with reference to the disposition, occupancy, and use of the land as permitted to an entryman under this subchapter.

#### (b) Exploration; location of mining claims; notices

##### (1) In general

(A) Notwithstanding subsection (a) of this section and any other provision of law to the contrary, after the effective date of this subsection no person other than the surface owner may enter lands subject to this subchapter to explore for, or to locate, a mining claim on such lands without—

(i) filing a notice of intention to locate a mining claim pursuant to paragraph (2); and

(ii) providing notice to the surface owner pursuant to paragraph (3).

(B) Any person who has complied with the requirements referred to in subparagraph (A) may, during the authorized exploration period, in order to locate a mining claim, enter lands subject to this subchapter to undertake mineral activities related to exploration that cause no more than a minimal disturbance of surface resources and do not involve the use of mechanized earthmoving equipment, explosives, the construction of roads, drill pads, or the use of toxic or hazardous materials.

(C) The authorized exploration period referred to in subparagraph (B) shall begin 30 days after notice is provided under paragraph (3) with respect to lands subject to such notice and shall end with the expiration of the 90-day period referred to in paragraph (2)(A) or any extension provided under paragraph (2).

**(2) Notice of intention to locate a mining claim**

Any person seeking to locate a mining claim on lands subject to this subchapter in order to engage in the mineral activities relating to exploration referred to under paragraph (1)(B) shall file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on the land status records of the Secretary. Whenever any person has filed a notice under this paragraph with respect to any lands, during the 90-day period following the date of such filing, or any extension thereof pursuant to this paragraph, no other person (including the surface owner) may—

(A) file such a notice with respect to any portions of such lands;

(B) explore for minerals or locate a mining claim on any portion of such lands; or

(C) file an application to acquire any interest in any portion of such lands pursuant to section 1719 of this title.

If, within such 90-day period, the person who filed a notice under this paragraph files a plan of operations with the Secretary pursuant to subsection (f) of this section, such 90-day period shall be extended until the approval or disapproval of the plan by the Secretary pursuant to subsection (f) of this section.

**(3) Notice to surface owner**

Any person who has filed a notice of intention to locate a mining claim under paragraph (2) for any lands subject to this subchapter shall provide written notice of such filing, by registered or certified mail with return receipt, to the surface owner (as evidenced by local tax records) of the lands covered by the notice under paragraph (2). The notice shall be provided at least 30 days before entering such lands and shall contain each of the following:

(A) A brief description of the proposed mineral activities.

(B) A map and legal description of the lands to be subject to mineral exploration.

(C) The name, address and phone number of the person managing such activities.

(D) A statement of the dates on which such activities will take place.

**(4) Acreage limitations**

The total acreage covered at any time by notices of intention to locate a mining claim under paragraph (2) filed by any person and by affiliates of such person may not exceed 6,400 acres of lands subject to this subchapter in any one State and 1,280 acres of such lands for a single surface owner. For purposes of this paragraph, the term ''affiliate'' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

**(c) Consent**

Notwithstanding subsection (a) of this section and any other provision of law, after the effective date of this subsection no person may engage in the conduct of mineral activities (other than those relating to exploration referred to in subsection (b)(1)B)[1] of this section) on a mining claim located on lands subject to this subchapter without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under subsection (d) of this section.

**(d) Authorized mineral activities**

The Secretary shall authorize a person to conduct mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B) of this section) on lands subject to this subchapter without the consent of the surface owner thereof if such person complies with the requirements of subsections (e) and (f) of this section.

**(e) Bond**

(1) Before the Secretary may authorize any person to conduct mineral activities the Secretary shall require such person to post a bond or other financial guarantee in an amount to insure the completion of reclamation pursuant to this subchapter. Such bond or other financial guarantee shall ensure—

(A) payment to the surface owner, after the completion of such mineral activities and reclamation, compensation for any permanent damages to crops and tangible improvements of the surface owner that resulted from mineral activities; and

(B) payment to the surface owner of compensation for any permanent loss of income of the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the commencement of mineral activities.

(2) In determining the bond amount to cover permanent loss of income under paragraph (1)(B), the Secretary shall consider, where appropriate, the potential loss of value due to the

[1] So in original. Probably should be subsection ''(b)(1)(B)''.

estimated permanent reduction in utilization of the land.

**(f) Plan of operations**

(1) Before the Secretary may authorize any person to conduct mineral activities on lands subject to this subchapter, the Secretary shall require such person to submit a plan of operations. Such plan shall include procedures for—

(A) the minimization of damages to crops and tangible improvements of the surface owner;

(B) the minimization of disruption to grazing or other uses of the land by the surface owner; and

(C) payment of a fee for the use of surface during mineral activities equivalent to the loss of income to the ranch operation as established pursuant to subsection (g) of this section.

(2) The Secretary shall provide a copy of the proposed plan of operations to the surface owner at least 45 days prior to the date the Secretary makes a determination as to whether such plan complies with the requirements of this subsection. During such 45-day period the surface owner may submit comments and recommend modifications to the proposed plan of operations to the Secretary.

(3)(A) The Secretary shall, within 60 days of receipt of the plan, approve the plan of operations if it complies with the requirements of this subchapter, including each of the following:

(i) The proposed plan of operations is complete and accurate.

(ii) The person submitting the proposed plan of operations has demonstrated that all other applicable Federal and State requirements have been met.

(B) The Secretary shall notify the person submitting a plan of operations of any modifications to such plan required to bring it into compliance with the requirements of this subchapter. If the person submitting the plan agrees to modify such plan in a manner acceptable to the Secretary, the Secretary shall approve the plan as modified. In the event no agreement can be reached on the modifications to the plan which, in the opinion of the Secretary, will bring such plan into compliance with the requirements of this subchapter, then the Secretary shall disapprove the plan and notify both the surface owner and the person submitting the plan of the decision.

(C) The 60-day period referred to in subparagraph (A) may be extended by the Secretary where additional time is required to comply with other applicable requirements of law.

(D) The Secretary shall suspend or revoke a plan of operation whenever the Secretary determines, on the Secretary's own motion or on a motion made by the surface owner, that the person conducting mineral activities is in substantial noncompliance with the terms and conditions of an approved plan of operations and has failed to remedy a violation after notice from the Secretary within the time required by the Secretary.

(4) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsections (e) and (g) of this section.

**(g) Fee**

The fee referred to in subsection (f)(1) of this section shall be—

(1) paid to the surface owner by the person submitting the plan of operations;

(2) paid in advance of any mineral activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities; and

(3) established by the Secretary taking into account the acreage involved and the degree of potential disruption to existing surface uses during mineral activities (including the loss of income to the surface owner and such surface owner's operations due to the loss or impairment of existing surface uses for the duration of the mineral activities), except that such fee shall not exceed the fair market value for the surface of the land.

**(h) Reclamation**

Lands affected by mineral activities under a plan of operations approved pursuant to subsection (f)(3) of this section shall be reclaimed, to the maximum extent practicable, to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance. Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities.

**(i) State law**

(1) Nothing in this subchapter shall be construed as affecting any reclamation, bonding, inspection, enforcement, air or water quality standard or requirement of any State law or regulation which may be applicable to mineral activities on lands subject to this subchapter to the extent that such law or regulation is not inconsistent with this title.[2]

(2) Nothing in this subchapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, the interest of such person in water resources affected by mineral activities.

**(j) Inspections**

Should any surface owner of land subject to this subchapter have reason to believe that they are or may be adversely affected by mineral activities due to any violation of the terms and conditions of a plan of operations approved under subsection (f) of this section, such surface owner may request an inspection of such lands. The Secretary shall determine within 10 days of the receipt of the request whether the request states a reason to believe that a violation exists, except in the event the surface owner alleges and provides reason to believe that an imminent danger exists, the 10-day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the surface owner and such surface owner shall be allowed to accompany the inspector on the inspection.

**(k) Damages for failure to comply**

(1) Whenever the surface owner of any land subject to this subchapter has suffered any per-

[2] See References in Text note below.

manent damages to crops or tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner, if such damages or loss result from—

(A) any mineral activity undertaken without the consent of the surface owner under subsection (c) of this section or an authorization by the Secretary under subsection (d) of this section; or

(B) the failure of the person conducting mineral activities to remedy to the satisfaction of the Secretary any substantial noncompliance with the terms and conditions of a plan under subsection (f) of this section;

the surface owner may bring an action in the appropriate United States district court for, and the court may award, double damages plus costs for willful misconduct or gross negligence.

(2) The surface owner of any land subject to this subchapter may also bring an action in the appropriate United States district court for double damages plus costs for willful misconduct or gross negligence against any person undertaking any mineral activities on lands subject to this subchapter in violation of any requirement of subsection (b) of this section.

(3) Any double damages plus costs awarded by the court under this subsection shall be reduced by the amount of any compensation which the surface owner has received (or is eligible to receive) pursuant to the bond or financial guarantee required under subsection (e) of this section.

**(*l*) Payment of financial guarantee**

The surface owner of any land subject to this subchapter may petition the Secretary for payment of all or any portion of a bond or other financial guarantee required under subsection (e) of this section as compensation for any permanent damages to crops and tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner. Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure the required reclamation.

**(m) Bond release**

The Secretary shall release the bond or other financial guarantee required under subsection (e) of this section upon the successful completion of all requirements pursuant to a plan of operations approved under subsection (f) of this section.

**(n) Conveyance to surface owner**

The Secretary shall take such actions as may be necessary to simplify the procedures which must be complied with by surface owners of lands subject to this subchapter who apply to the Secretary to obtain title to interests in such lands owned by the United States.

**(*o*) Definitions**

For the purposes of subsections (b) through (n) of this section—

(1) The term ''mineral activities'' means any activity for, related to or incidental to mineral exploration, mining, and beneficiation activities for any locatable mineral on a mining claim. When used with respect to this term—

(A) the term ''exploration'' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

(B) the term ''mining'' means the processes employed for the extraction of a locatable mineral from the earth; and

(C) the term ''beneficiation'' means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from the other constituents, including but not necessarily limited to, physical and chemical separation techniques.

(2) The term ''mining claim'' means a claim located under the general mining laws of the United States (which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162) subject to the terms and conditions of subsections (b) through (p) of this section.

(3) The term ''tangible improvements'' includes agricultural, residential and commercial improvements, including improvements made by residential subdividers.

**(p) Minerals covered**

Subsections (b) through (*o*) of this section apply only to minerals not subject to disposition under—

(1) the Mineral Leasing Act (30 U.S.C. 181 and following);

(2) the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.]; or

(3) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

(Dec. 29, 1916, ch. 9, § 9, 39 Stat. 864; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 103–23, § 1(a), (b), Apr. 16, 1993, 107 Stat. 60, 65.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsecs. (b)(1)(A) and (c), is the date 180 days after Apr. 16, 1993.

This title, referred to in subsec. (i)(1), is unidentifiable because act Dec. 29, 1916, does not contain titles.

The Mineral Leasing Act, referred to in subsec. (p)(1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Geothermal Steam Act of 1970, referred to in subsec. (p)(2), is Pub. L. 91–581, Dec. 24, 1970, 84 Stat. 1566, as amended, which is classified principally to chapter 23 (§ 1001 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 30 and Tables.

The Materials Act of 1947, referred to in subsec. (p)(3), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

AMENDMENTS

1993—Pub. L. 103–23 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) to (p).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1(c) of Pub. L. 103–23 provided that: ''The amendments made by this Act [amending this section] shall take effect 180 days after the date of enactment [Apr. 16, 1993].''

REGULATIONS

Section 1(d) of Pub. L. 103–23 provided that: ''The Secretary of the Interior shall issue final regulations to implement the amendments made by this Act [amending this section] not later than the effective date of this Act [see Effective Date of 1993 Amendment note above]. Failure to promulgate these regulations by reason of any appeal or judicial review shall not delay the effective date as specified in paragraph (c).''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''officer designated by the Secretary of the Interior'' substituted for ''register'' and ''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

REPORT TO CONGRESS ON FOREIGN MINERAL INTERESTS

Section 2 of Pub. L. 103–23 directed Secretary of the Interior to submit report to Congress within 2 years after Apr. 16, 1993, on acquisition of mineral interests made after such date by foreign firms on lands subject to this section.

### § 300. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, acts Dec. 29, 1916, ch. 9, §10, 39 Stat. 865; Jan. 29, 1929, ch. 114, 45 Stat. 1144, set forth provisions authorizing reservation of land containing water holes.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 301. Rules and regulations

The Secretary of the Interior is authorized to make all necessary rules and regulations in harmony with the provisions and purposes of this subchapter for the purpose of carrying the same into effect.

(Dec. 29, 1916, ch. 9, §11, 39 Stat. 865.)

### § 302. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act Mar. 4, 1923, ch. 245, §2, 42 Stat. 1445, related to additional entries, and lands in national forests.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

## CHAPTER 8—TIMBER AND STONE LANDS

### §§ 311 to 313. Repealed. Aug. 1, 1955, ch. 448, 69 Stat. 434

Section 311, acts June 3, 1878, ch. 151, §1, 20 Stat. 89; Aug. 4, 1892, ch. 375, §2, 27 Stat. 348; May 18, 1898, ch. 344, §1, 30 Stat. 418, authorized sale of public lands valuable chiefly for timber or stone.

Section 312, acts June 3, 1878, ch. 151, §2, 20 Stat. 89; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for applications for purchase of timber and stone lands.

Section 313, act June 3, 1878, ch. 151, §3, 20 Stat. 90, provided for publication of applications to purchase timber and stone lands, patent and entry.

EXISTING RIGHTS AND CLAIMS

Act Aug. 1, 1955, provided that the repeal of sections 311 to 313 is subject to valid existing rights and claims.

## CHAPTER 8A—GRAZING LANDS

SUBCHAPTER I—GENERALLY

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315a. Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses.
315b. Grazing permits; fees; vested water rights; permits not to create right in land.
315c. Fences, wells, reservoirs, and other improvements; construction; permits; partition fences.
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315f. Homestead entry within district or withdrawn lands; classification; preferences.
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315m–1. Lease of State, county, or privately owned lands; period of lease; rental.
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315*o*–2. Animals and equipment for field employees.
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SUBCHAPTER I—GENERALLY

## § 315. Grazing districts; establishment; restrictions; prior rights; rights-of-way; hearing and notice; hunting or fishing rights

In order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof, of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California Railroad grant lands, or revested Coos Bay Wagon Road grant lands, and which in his opinion are chiefly valuable for grazing and raising forage crops: *Provided*, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof. Nothing in this subchapter shall be construed in any way to diminish, restrict, or impair any right which has been heretofore or may be hereafter initiated under existing law validly affecting the public lands, and which is maintained pursuant to such law except as otherwise expressly provided in this subchapter nor to affect any land heretofore or hereafter surveyed which, except for the provisions of this subchapter, would be a part of any grant to any State, nor as limiting or restricting the power or authority of any State as to matters within its jurisdiction. Whenever any grazing district is established pursuant to this subchapter, the Secretary shall grant to owners of land adjacent to such district, upon application of any such owner, such rights-of-way over the lands included in such district for stock-driving purposes as may be necessary for the convenient access by any such owner to marketing facilities or to lands not within such district owned by such person or upon which such person has stock-grazing rights. Neither this subchapter nor the Act of December 29, 1916 (39 Stat. 862; U.S.C., title 43, secs. 291 and following), commonly known as the ''Stock Raising Homestead Act'', shall be construed as limiting the authority or policy of Congress or the President to include in national forests public lands of the character described in section 471[1] of title 16, for the purposes set forth in section 475 of title 16, or such other purposes as Congress may specify. Before grazing districts are created in any State as herein provided, a hearing shall be held in the State, after public notice thereof shall have been given, at such location convenient for the attendance of State officials, and the settlers, residents, and livestock owners of the vicinity, as may be determined by the Secretary of the Interior. No such district shall be established until the expiration of ninety days after such notice shall have been given, nor until twenty days after such hearing shall be held: *Provided*, *however*, That the publication of such notice shall have the effect of withdrawing all public lands within the exterior boundary of such proposed grazing districts from all forms of entry of settlement. Nothing in this subchapter shall be construed as in any way altering or restricting the right to hunt or fish within a grazing district in accordance with the laws of the United States or of any State, or as vesting in any permittee any right whatsoever to interfere with hunting or fishing within a grazing district.

(June 28, 1934, ch. 865, § 1, 48 Stat. 1269; June 26, 1936, ch. 842, title I, § 1, 49 Stat. 1976; May 28, 1954, ch. 243, § 2, 68 Stat. 151.)

REFERENCES IN TEXT

The Stock Raising Homestead Act, referred to in text, is act Dec. 29, 1916, ch. 9, 39 Stat. 862, as amended, which was classified generally to subchapter X (§ 291 et seq.) of chapter 7 of this title and was repealed by Pub. L. 94–579, title VII, §§ 702, 704(a), Oct. 21, 1976, 90 Stat. 2787, 2792, except for sections 9 and 11 which are classified to sections 299 and 301, respectively, of this title. For complete classification of this Act to the Code, see Short Title note set out under section 291 of this title and Tables.

Section 471 of title 16, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

AMENDMENTS

1954—Act May 28, 1954, struck out of first sentence provision limiting to one hundred and forty-two million acres the area which might be included in grazing districts.

1936—Act June 26, 1936, increased acreage which could be included in grazing districts from 80 million to 142 million acres.

SHORT TITLE

Act June 28, 1934, which enacted this subchapter, is popularly known as the ''Taylor Grazing Act''.

## § 315a. Protection, administration, regulation, and improvement of districts; rules and regulations; study of erosion and flood control; offenses

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of such grazing dis-

[1] See References in Text note below.

tricts as may be created under the authority of section 315 of this title, and he shall make such rules and regulations and establish such service, enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this subchapter and to insure the objects of such grazing districts, namely, to regulate their occupancy and use, to preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range; and the Secretary of the Interior is authorized to continue the study of erosion and flood control and to perform such work as may be necessary amply to protect and rehabilitate the areas subject to the provisions of this subchapter, through such funds as may be made available for that purpose, and any willful violation of the provisions of this subchapter or of such rules and regulations thereunder after actual notice thereof shall be punishable by a fine of not more than $500.

(June 28, 1934, ch. 865, § 2, 48 Stat. 1270.)

### § 315b. Grazing permits; fees; vested water rights; permits not to create right in land

The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners as under his rules and regulations are entitled to participate in the use of the range, upon the payment annually of reasonable fees in each case to be fixed or determined from time to time in accordance with governing law. Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such, as required by the naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located. Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water or water rights owned, occupied, or leased by them, except that until July 1, 1935, no preference shall be given in the issuance of such permits to any such owner, occupant, or settler, whose rights were acquired between January 1, 1934, and December 31, 1934, both dates, inclusive, except that no permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. Such permits shall be for a period of not more than ten years, subject to the preference right of the permittees to renewal in the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and seasons of use. During periods of range depletion due to severe drought or other natural causes, or in case of a general epidemic of disease, during the life of the permit, the Secretary of the Interior is authorized, in his discretion to remit, reduce, refund in whole or in part, or authorize postponement of payment of grazing fees for such depletion period so long as the emergency exists: *Provided further*, That nothing in this subchapter shall be construed or administered in any way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacture, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law. So far as consistent with the purposes and provisions of this subchapter, grazing privileges recognized and acknowledged shall be adequately safeguarded, but the creation of a grazing district or the issuance of a permit pursuant to the provisions of this subchapter shall not create any right, title, interest, or estate in or to the lands.

(June 28, 1934, ch. 865, § 3, 48 Stat. 1270; Aug. 6, 1947, ch. 507, § 1, 61 Stat. 790; Pub. L. 94–579, title IV, § 401(b)(3), Oct. 21, 1976, 90 Stat. 2773.)

AMENDMENTS

1976—Pub. L. 94–579 substituted provisions authorizing fees to be fixed in accordance with governing law, for provisions authorizing fees to take into account public benefits to users of grazing districts over and above benefits accruing to users of forage resources and provisions requiring fees to consist of a grazing fee and a range-improvement fee.

1947—Act Aug. 6, 1947, provided for method to be used by Secretary of the Interior in fixing amount of grazing fees and by assessing a separate grazing fee and a range-improvement fee.

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.

### § 315c. Fences, wells, reservoirs, and other improvements; construction; permits; partition fences

Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive.

(June 28, 1934, ch. 865, § 4, 48 Stat. 1271.)

### § 315d. Grazing stock for domestic purposes; use of natural resources

The Secretary of the Interior shall permit, under regulations to be prescribed by him, the

free grazing within such districts of livestock kept for domestic purposes; and provided that so far as authorized by existing law or laws hereinafter enacted, nothing contained in this subchapter shall prevent the use of timber, stone, gravel, clay, coal, and other deposits by miners, prospectors for mineral, bona fide settlers and residents, for firewood, fencing, buildings, mining, prospecting, and domestic purposes within areas subject to the provisions of this subchapter.

(June 28, 1934, ch. 865, § 5, 48 Stat. 1271.)

### § 315e. Rights of way; development of mineral resources

Nothing contained in this subchapter shall restrict the acquisition, granting or use of permits or rights of way within grazing districts under existing law; or ingress or egress over the public lands in such districts for all proper and lawful purposes; and nothing contained in this subchapter shall restrict prospecting, locating, developing, mining, entering, leasing, or patenting the mineral resources of such districts under law applicable thereto.

(June 28, 1934, ch. 865, § 6, 48 Stat. 1272.)

### § 315f. Homestead entry within district or withdrawn lands; classification; preferences

The Secretary of the Interior is authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for the production of agricultural crops than for the production of native grasses and forage plants, or more valuable or suitable for any other use than for the use provided for under this subchapter or proper for acquisition in satisfaction of any outstanding lieu, exchange or script[1] rights or land grant, and to open such lands to entry, selection, or location for disposal in accordance with such classification under applicable public-land laws, except that homestead entries shall not be allowed for tracts exceeding three hundred and twenty acres in area. Such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry: *Provided*, That locations and entries under the mining laws including the Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.], may be made upon such withdrawn and reserved areas without regard to classification and without restrictions or limitation by any provision of this subchapter. Where such lands are located within grazing districts reasonable notice shall be given by the Secretary of the Interior to any grazing permittee of such lands. The applicant, after his entry, selection, or location is allowed, shall be entitled to the possession and use of such lands: *Provided*, That upon the application of any applicant qualified to make entry, selection, or location, under the public-land laws, filed in the land office of the proper district, the Secretary of the Interior shall cause any tract to be classified, and such application, if allowed by the Secretary of the Interior, shall entitle the applicant to a preference right to enter, select, or locate such lands if opened to entry as herein provided.

(June 28, 1934, ch. 865, § 7, 48 Stat. 1272; June 26, 1936, ch. 842, title I, § 2, 49 Stat. 1976.)

[1] So in original. Probably should be "scrip".

REFERENCES IN TEXT

Act of February 25, 1920, as amended, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

AMENDMENTS

1936—Act June 26, 1936, amended section generally.

### §§ 315g, 315g–1. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 315g, acts June 28, 1934, ch. 865, § 8, 48 Stat. 1272; June 26, 1936, ch. 842, title I, § 3, 49 Stat. 1976; June 19, 1948, ch. 548, § 1, 62 Stat. 533, related to acceptance of donations of grazing lands.

Section 315g–1, Pub. L. 87–524, July 9, 1962, 76 Stat. 140, authorized lands acquired under former section 315g of this title which were parts of national forests to be continued in such status.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 315h. Cooperation with associations, land officials, and agencies engaged in conservation or propagation of wildlife; local hearings on appeals; acceptance and use of contributions

The Secretary of the Interior shall provide, by suitable rules and regulations, for cooperation with local associations of stockmen, State land officials, and official State agencies engaged in conservation or propagation of wildlife interested in the use of the grazing districts. The Secretary of the Interior shall provide by appropriate rules and regulations for local hearings on appeals from the decisions of the administrative officer in charge in a manner similar to the procedure in the land department. The Secretary of the Interior shall also be empowered to accept contributions toward the administration, protection, and improvement of lands within or without the exterior boundaries of a grazing district, moneys, so received to be covered into the Treasury as a special fund, which is appropriated and made available until expended, as the Secretary of the Interior may direct, for payment of expenses incident to said administration, protection, and improvement, and for refunds to depositors of amounts contributed by them in excess of their share of the cost.

(June 28, 1934, ch. 865, § 9, 48 Stat. 1273; June 19, 1948, ch. 548, § 2, 62 Stat. 533.)

AMENDMENTS

1948—Act June 19, 1948, substituted "lands within or without the external boundaries of a grazing district" for "the district" in third sentence, in order to permit acceptance of lands without boundaries of grazing district.

### § 315i. Disposition of moneys received; availability for improvements

Except as provided in sections 315h and 315j of this title, all moneys received under the authority of this subchapter shall be deposited in the Treasury of the United States as miscellaneous receipts, but the following proportions of the moneys so received shall be distributed as follows: (a) 12½ per centum of the moneys collected as grazing fees under section 315b of this title during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the grazing districts producing such moneys are situated, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the grazing districts producing such moneys are situated: *Provided*, That if any grazing district is in more than one State or county, the distributive share to each from the proceeds of said district shall be proportional to its area in said district; (b) 50 per centum of all moneys collected under section 315m of this title[1] during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the lands producing such moneys are located, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the lands producing such moneys are located: *Provided*, That if any leased tract is in more than one State or county, the distributive share to each from the proceeds of said leased tract shall be proportional to its area in said leased tract.

(June 28, 1934, ch. 865, § 10, 48 Stat. 1273; June 26, 1936, ch. 842, title I, § 4, 49 Stat. 1978; Aug. 6, 1947, ch. 507, § 2, 61 Stat. 790; Pub. L. 94–579, title IV, § 401(b)(2), Oct. 21, 1976, 90 Stat. 2773.)

REFERENCES IN TEXT

Section 315m of this title, referred to in text, was in the original "said section", referring back to section 315m cited in a preceding provision which was deleted by Pub. L. 94–579 without correction to phrase "said section".

AMENDMENTS

1976—Pub. L. 94–579 in cl. (b) struck out authorization of availability of 25 per centum of all moneys collected under section 315m of this title during any fiscal year for construction, etc., of range improvements.

1947—Act Aug. 6, 1947, reduced States' share of grazing fees collected under section 315b of this title from 50 to 12½ per centum and provided for distribution of grazing fees collected under section 315m of this title with 25 per centum available for range improvements and 50 per centum paid to the State.

1936—Act June 26, 1936, substituted "under this subchapter during any fiscal year" for "from each grazing district during any fiscal year", wherever appearing, "in which the grazing districts or lands producing such moneys are situated" for "in which said grazing district is situated" wherever appearing, and inserted in proviso "or leased tract" after "grazing district" wherever appearing.

[1] See References in Text note below.

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.

### § 315j. Appropriation of moneys received; application of public-land laws to Indian ceded lands; application for mineral title to lands

When appropriated by Congress, 33⅓ per centum of all grazing fees received from each grazing district on Indian lands ceded to the United States for disposition under the public-land laws during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which said lands are situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such grazing lands are situated. And the remaining 66⅔ per centum of all grazing fees received from such grazing lands shall be deposited to the credit of the Indians pending final disposition under applicable laws, treaties, or agreements. The applicable public land laws as to said Indian ceded lands within a district created under this subchapter shall continue in operation, except that each and every application for nonmineral title to said lands in a district created under this subchapter shall be allowed only if in the opinion of the Secretary of the Interior the land is of the character suited to disposal through the Act under which application is made and such entry and disposal will not affect adversely the best public interest, but no settlement or occupation of such lands shall be permitted until ninety days after allowance of an application.

(June 28, 1934, ch. 865, § 11, 48 Stat. 1273; Aug. 6, 1947, ch. 507, § 3, 61 Stat. 791.)

AMENDMENTS

1947—Act Aug. 6, 1947, provided that 33⅓ per centum of grazing fees on certain Indian lands be paid to the States and the remaining 66⅔ per centum of such fees be credited to the Indians.

### § 315k. Cooperation with governmental departments; coordination of range administration

The Secretary of the Interior is authorized to cooperate with any department of the Government in carrying out the purposes of this subchapter and in the coordination of range administration, particularly where the same stock grazes part time in a grazing district and part time in a national forest or other reservation.

(June 28, 1934, ch. 865, § 12, 48 Stat. 1274.)

### § 315*l*. Lands under national-forest administration

The President of the United States is authorized to reserve by proclamation and place under national-forest administration in any State where national forests may be created or enlarged by Executive order any unappropriated public lands lying within watersheds forming a part of the national forests which, in his opinion, can best be administered in connection with existing national-forest administration units, and to place under the Interior Department administration any lands within national forests,

principally valuable for grazing, which, in his opinion, can best be administered under the provisions of this subchapter: *Provided*, That such reservations or transfers shall not interfere with legal rights acquired under any public-land laws so long as such rights are legally maintained. Lands placed under the national-forest administration under the authority of this subchapter shall be subject to all the laws and regulations relating to national forests, and lands placed under the Interior Department administration shall be subject to all public-land laws and regulations applicable to grazing districts created under authority of this subchapter. Nothing in this section shall be construed so as to limit the powers of the President (relating to reorganizations in the executive departments) granted by sections 124 to 132 of title 5.[1]

(June 28, 1934, ch. 865, § 13, 48 Stat. 1274.)

REFERENCES IN TEXT

Sections 124 to 132 of title 5, referred to in text, was in the original ''title 4 of the Act entitled 'An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes', approved March 3, 1933'', meaning Title IV of Part II (§§ 401–409) of the Legislative Appropriation Act, fiscal year 1933, as amended generally by section 16 of act Mar. 3, 1933, ch. 212, 47 Stat. 1517, which was classified to sections 124 to 132 of former Title 5, Executive Departments and Government Officers and Employees. Sections 124 to 131 of former Title 5 were repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 632, the first section of which enacted Title 5, Government Organization and Employees, and section 132 of former Title 5 was omitted as executed pursuant to its own terms.

### § 315m. Lease of isolated or disconnected tracts for grazing; preferences

The Secretary of the Interior is further authorized, in his discretion, where vacant, unappropriated, and unreserved lands of the public domain are so situated as not to justify their inclusion in any grazing district to be established pursuant to this subchapter, to lease any such lands for grazing purposes, upon such terms and conditions as the Secretary may prescribe: *Provided*, That preference shall be given to owners, homesteaders, lessees, or other lawful occupants of contiguous lands to the extent necessary to permit proper use of such contiguous lands, except, that when such isolated or disconnected tracts embrace seven hundred and sixty acres or less, the owners, homesteaders, lessees, or other lawful occupants of lands contiguous thereto or cornering thereon shall have a preference right to lease the whole of such tract, during a period of ninety days after such tract is offered for lease, upon the terms and conditions prescribed by the Secretary: *Provided further*, That when public lands are restored from a withdrawal, the Secretary may grant an appropriate preference right for a grazing lease, license, or permit to users of the land for grazing purposes under authority of the agency which had jurisdiction over the lands immediately prior to the time of their restoration.

(June 28, 1934, ch. 865, § 15, 48 Stat. 1275; June 26, 1936, ch. 842, title I, § 5, 49 Stat. 1978; May 28, 1954, ch. 243, § 1, 68 Stat. 151.)

[1] See References in Text note below.

AMENDMENTS

1954—Act May 28, 1954, inserted proviso authorizing Secretary to grant a preference right to users of withdrawn public lands for grazing purposes when lands are restored from withdrawal.

1936—Act June 26, 1936, inserted first proviso.

### § 315m–1. Lease of State, county, or privately owned lands; period of lease; rental

The Secretary of the Interior in his discretion is authorized to lease at rates to be determined by him any State, county, or privately owned lands chiefly valuable for grazing purposes and lying within the exterior boundaries of a grazing district when, in his judgment, the leasing of such lands will promote the orderly use of the district and aid in conserving the forage resources of the public lands therein: *Provided*, That no such leases shall run for a period of more than ten years and in no event shall the grazing fees paid the United States for the grazing privileges on any of the lands leased under the provisions of this section be less than the rental paid by the United States for any of such lands: *Provided further*, That nothing in this section shall be construed as authorizing the appropriation of any moneys except that moneys heretofore or hereafter appropriated for construction, purchase, and maintenance of range improvements within grazing districts, pursuant to the provisions of sections 315i and 315j of this title, may be made additionally available by Congress for the leasing of land under this section and sections 315m–2 to 315m–4 of this title.

(June 23, 1938, ch. 603, § 1, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

### § 315m–2. Administration of leased lands

The lands leased under sections 315m–1 to 315m–4 of this title shall be administered under the provisions of the Act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), commonly known as the Taylor Grazing Act.

(June 23, 1938, ch. 603, § 2, 52 Stat. 1033.)

REFERENCES IN TEXT

Act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), referred to in text, is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, known as the Taylor Grazing Act, which is classified principally to this subchapter (§ 315 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

### § 315m–3. Availability of contributions received

Contributions received by the Secretary of the Interior under section 315h of this title, toward the administration, protection, and improvement of any district shall be additionally available for the leasing of lands under sections 315m–1 to 315m–4 of this title.

(June 23, 1938, ch. 603, § 3, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

### § 315m–4. Disposition of receipts; availability for leasing of land

All moneys received by the Secretary of the Interior in the administration of leased lands as provided in section 315m–2 of this title shall be deposited in the Treasury of the United States as miscellaneous receipts, but are made available, when appropriated by the Congress, for the leasing of lands under sections 315m–1 to 315m–4 of this title and shall not be distributed as provided under sections 315i and 315j of this title.

(June 23, 1938, ch. 603, § 4, 52 Stat. 1033.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

### § 315n. State police power not abridged

Nothing in this subchapter shall be construed as restricting the respective States from enforcing any and all statutes enacted for police regulation, nor shall the police power of the respective States be, by this subchapter, impaired or restricted, and all laws heretofore enacted by the respective States or any thereof, or that may hereafter be enacted as regards public health or public welfare, shall at all times be in full force and effect: *Provided, however*, That nothing in this section shall be construed as limiting or restricting the power and authority of the United States.

(June 28, 1934, ch. 865, § 16, 48 Stat. 1275.)

### § 315*o*. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 649

Section, act June 28, 1934, ch. 865, § 17, as added June 26, 1936, ch. 842, § 6, 49 Stat. 1978, authorized the President to select a Director of Grazing and the Secretary of the Interior to appoint assistant directors and employees.

### § 315*o*–1. Board of grazing district advisers; composition; meetings; duties

(a) In order that the Secretary of the Interior may have the benefit of the fullest information and advice concerning physical, economic, and other local conditions in the several grazing districts, there shall be an advisory board of local stockmen in each such district, the members of which shall be known as grazing district advisers. Each such board shall consist of not less than five nor more than twelve members, exclusive of wildlife representatives, one such representative to be appointed by the Secretary, in his discretion, to membership on each such board. Except for such wildlife representatives, the names of the members of each district advisory board shall be recommended to the Secretary by the users of the range in that district through an election conducted under rules and regulations prescribed by the Secretary. No grazing district adviser so recommended, however, shall assume office until he has been appointed by the Secretary and has taken an oath of office. The Secretary may, after due notice, remove any grazing district adviser from office if in his opinion such removal would be for the good of the service.

(b) Each district advisory board shall meet at least once annually at a time to be fixed by the Secretary of the Interior, or by such other officer to whom the Secretary may delegate the function of issuing grazing permits, and at such other times as its members may be called by such officer. Each board shall offer advice and make a recommendation on each application for such a grazing permit within its district: *Provided*, That in no case shall any grazing district adviser participate in any advice or recommendation concerning a permit, or an application therefor, in which he is directly or indirectly interested. Each board shall further offer advice or make recommendations concerning rules and regulations for the administration of this subchapter, the establishment of grazing districts and the modification of the boundaries thereof, the seasons of use and carrying capacity of the range, and any other matters affecting the administration of this subchapter within the district. Except in a case where in the judgment of the Secretary an emergency shall exist, the Secretary shall request the advice of the advisory board in advance of the promulgation of any rules and regulations affecting the district.

(June 28, 1934, ch. 865, § 18, as added July 14, 1939, ch. 270, 53 Stat. 1002; amended 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

"Secretary of the Interior" substituted for "Director of Grazing" in subsec. (b) on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished Grazing Service and transferred functions of Grazing Service to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 315*o*–2. Animals and equipment for field employees

The Secretary of the Interior may require field employees of the Bureau of Land Management to furnish horses and miscellaneous equip-

ment necessary for the performance of their official work and may provide at Government expense forage, care, and housing for such animals and equipment.

(Dec. 18, 1942, ch. 769, 56 Stat. 1067; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

TRANSFER OF FUNCTIONS

"Bureau of Land Management" substituted for "Grazing Service" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished Grazing Service and transferred functions of Grazing Service to a new agency to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 315p. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Aug. 24, 1937, ch. 744, 50 Stat. 748, authorized issuance of patents for lands acquired under exchange provisions of former section 315g of this title.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 315q. Withdrawal of lands for war or national defense purposes; payment for cancellation of permits or licenses

Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing contained in this section shall be construed to create any liability not now existing against the United States.

(July 9, 1942, ch. 500, 56 Stat. 654; May 28, 1948, ch. 353, § 1, 62 Stat. 277.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

AMENDMENTS

1948—Act May 28, 1948, inserted "or national defense" between "war" and "purposes" wherever appearing.

EFFECTIVE DATE OF 1948 AMENDMENT

Section 2 of act May 28, 1948, provided that: "This amendment [amending this section] is to take effect as of July 25, 1947."

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

### § 315r. Rental payments in advance in case of withdrawal of lands for war or national defense purposes

In administering the provisions of section 315q of this title, payments of rentals may be made in advance.

(Oct. 29, 1949, ch. 787, title III, § 301, 63 Stat. 996.)

CODIFICATION

Section was not enacted as a part of act June 28, 1934, known as the Taylor Grazing Act, which comprises this subchapter.

## SUBCHAPTER II—ALASKA

### § 316. Declaration of policy

It is declared to be the policy of Congress in promoting the conservation of the natural resources of Alaska to provide for the protection and development of forage plants and for the beneficial utilization thereof for grazing by livestock under such regulations as may be considered necessary and consistent with the purposes and provisions of this subchapter. In effectuating this policy the use of these lands for grazing shall be subordinated (a) to the development of their mineral resources, (b) to the protection, development, and utilization of their forests, (c) to the protection, development, and utilization of their water resources, (d) to their use for agriculture, and (e) to the protection, development, and utilization of such other resources as may be of greater benefit to the public.

(Mar. 4, 1927, ch. 513, § 1, 44 Stat. 1452.)

CODIFICATION

Section was formerly classified to section 471 of Title 48, Territories and Insular Possessions.

SHORT TITLE

Act Mar. 4, 1927, ch. 513, which is classified to this subchapter, is popularly known as the "Alaska Livestock Grazing Act".

### § 316a. Definitions

As used in this subchapter—

(1) The term "person" means individual, partnership, corporation, or association.

(2) The term "district" means any grazing district established under the provisions of section 316b of this title.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "lessee" means the holder of any lease.

(Mar. 4, 1927, ch. 513, § 2, 44 Stat. 1452.)

CODIFICATION

Section was formerly classified to section 471a of Title 48, Territories and Insular Possessions.

### § 316b. Grazing districts

(a) The Secretary may establish grazing districts upon any public lands outside of the Aleutian Islands Reservation, national forests, and other reservations administered by the Secretary of Agriculture and outside of national parks and monuments which, in his opinion, are valuable for the grazing of livestock. Such districts may include such areas of surveyed and unsurveyed lands as he determines may be conveniently administered as a unit, even if such areas are neither contiguous nor adjacent.

(b) The Secretary, after the establishment of a district, is authorized to lease the grazing privileges therein in accordance with the provisions of this subchapter.[1]

(Mar. 4, 1927, ch. 513, § 3, 44 Stat. 1452.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original ''this title'' and has been translated as if the reference was to ''this Act'' to reflect the probable intent of Congress inasmuch as the act of Mar. 4, 1927, was not divided into titles.

CODIFICATION

Section was formerly classified to section 471b of Title 48, Territories and Insular Possessions.

### § 316c. Alteration of grazing districts

After any district is established the area embraced therein may be altered in any of the following ways:

(1) The Secretary may add to such districts any public lands which, in his opinion, should be made a part of the district.

(2) The Secretary, subject to existing rights of any lessee, may exclude from such district any lands which he determines are no longer valuable for grazing purposes or are more valuable for other purposes.

(3) The Secretary may enter into cooperative agreement with any person, in respect of the administration, as a part of a district, of lands owned by such person which are contiguous or adjacent to such district or any part thereof.

(Mar. 4, 1927, ch. 513, § 4, 44 Stat. 1452.)

CODIFICATION

Section was formerly classified to section 471c of Title 48, Territories and Insular Possessions.

### § 316d. Notice of establishment and alteration of grazing district; hearings

Before establishing or altering a district the Secretary shall publish once a week for a period of six consecutive weeks in a newspaper of general circulation in each judicial division in which the district proposed to be established or altered is located, a notice describing the boundaries of the proposed district or the proposed alteration, announcing the date on which he proposes to establish such district or make such alteration and the location and date of hearings required under this section. No such alteration shall be made until after public hearings are held with respect to such alteration in each such judicial division after the publishing of such notice.

(Mar. 4, 1927, ch. 513, § 5, 44 Stat. 1453; Pub. L. 90–403, § 1, July 18, 1968, 82 Stat. 358.)

CODIFICATION

Section was formerly classified to section 471d of Title 48, Territories and Insular Possessions.

AMENDMENTS

1968—Pub. L. 90–403 required publication of notice of alteration of a grazing district in each judicial division in which the district proposed to be altered is located, the notice to describe the boundaries of the proposed alteration and location and date of requisite hearings, and also public hearings with respect to the alteration to be held in each such judicial division prior to making the alteration.

### § 316e. Preferences

In considering applications to lease grazing privileges the Secretary shall, as far as is consistent with the efficient administration of the grazing district, prefer (1) natives, (2) other occupants of the range, and (3) settlers over all other applicants.

(Mar. 4, 1927, ch. 513, § 6, 44 Stat. 1453.)

CODIFICATION

Section was formerly classified to section 471e of Title 48, Territories and Insular Possessions.

### § 316f. Terms and conditions of lease

**(a) Period of lease**

A lease may be made for such term as the Secretary deems reasonable, but not to exceed fifty-five years, taking into consideration all factors that are relevant to the exercise of the grazing privileges conferred.

**(b) Size of leasehold**

Leases shall be made for grazing on a definite area except where local conditions or the administration of grazing privileges makes more practicable a lease based on the number of stock to be grazed.

**(c) Terms for surrender of lease**

Each lease shall provide that the lessee may surrender his lease, and, if he has complied with the terms and conditions of the lease to the time of surrender, may avoid further liability for fees thereunder by giving written notice to the Secretary of such surrender. The lease shall specify the length of time of notice, which shall not exceed one year.

**(d) Terms for renewal of lease**

Each lease shall provide that the lessee may negotiate for renewal of such lease, subject to the provisions of this subchapter, at any time during the final five years of the term of such lease.

(Mar. 4, 1927, ch. 513, § 7, 44 Stat. 1453; Pub. L. 90–403, § 2, July 18, 1968, 82 Stat. 358.)

CODIFICATION

Section was formerly classified to section 471f of Title 48, Territories and Insular Possessions.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–403, § 2(a), substituted provisions for reasonable term of leases, limited to fifty-five years, and based on all factors relevant to ex-

[1] See References in Text note below.

ercise of grazing privileges for prior provisions for twenty year leases, except where land may be required for other than grazing purposes within a ten year period, and for shorter term leases as desired by applicant.

Subsec. (d). Pub. L. 90–403, § 2(b), added subsec. (d).

### § 316g. Grazing fees

(a) The Secretary shall determine for each lease the grazing fee to be paid. Such fee shall—

(1) Be fixed on the basis of the area leased or on the basis of the number and kind of stock permitted to be grazed;

(2) Be fixed, for the period of the lease, as a seasonal or annual fee, payable annually or semi-annually on the date specified in the lease;

(3) Be fixed with due regard to the general economic value of the grazing privileges, and in no case shall exceed such value; and

(4) Be moderate.

(b) If the Secretary determines such action to be for the public interest by reason of (1) depletion or destruction of the range by any cause beyond the control of the lessee, or (2) calamity or disease causing wholesale destruction of or injury to livestock, he may grant an extension of time for making payment of any grazing fee undue any lease, reduce the amount of any such payment, or release or discharge the lessee from making such payment.

(Mar. 4, 1927, ch. 513, § 8, 44 Stat. 1453.)

CODIFICATION

Section was formerly classified to section 471g of Title 48, Territories and Insular Possessions.

### § 316h. Dispositions of receipts

All moneys received during any fiscal year on account of such fees in excess of the actual cost of administration of this subchapter shall be paid at the end thereof by the Secretary of the Treasury to the Territory of Alaska, to be expended in such manner as the Legislature of the Territory may direct for the benefit of public education and roads.

(Mar. 4, 1927, ch. 513, § 9, 44 Stat. 1453.)

CODIFICATION

Section was formerly classified to section 471h of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

### § 316i. Assignment of leases

The lessee may, with the approval of the Secretary, assign in whole or in part any lease, and to the extent of such assignment be relieved from any liability in respect of such lease, accruing subsequent to the effective date of such assignment.

(Mar. 4, 1927, ch. 513, § 10, 44 Stat. 1453.)

CODIFICATION

Section was formerly classified to section 471i of Title 48, Territories and Insular Possessions.

### § 316j. Improvements to leasehold

**(a) Authorization**

The Secretary may authorize a lessee to construct and/or maintain and utilize upon any area included within the provisions of his lease any fence, building, corral, reservoir, well or other improvements needed for the exercise of the grazing privileges of the lessee within such area; but any such fence shall be constructed as to permit the ingress and egress of miners, prospectors for minerals, and other persons entitled to enter such area for lawful purposes.

**(b) Removal of improvement upon termination of lease**

The lessee shall be given ninety days from the date of termination of his lease for any cause to remove from the area included within the provisions of his lease any fence, building, corral, or other removable range improvement owned or controlled by him.

**(c) Payment for improvement upon termination of lease**

If such lessee notifies the Secretary on or before the termination of his lease of his determination to leave on the land any improvements the construction or maintenance of which has been authorized by the Secretary, no other person shall use or occupy under any grazing lease, or entry under any public land law, the land on which any such improvements are located until there has been paid to the person entitled thereto the value of such improvements as determined by the Secretary.

(Mar. 4, 1927, ch. 513, § 11, 44 Stat. 1454.)

CODIFICATION

Section was formerly classified to section 471j of Title 48, Territories and Insular Possessions.

### § 316k. Penalties

Within one year from the date of the establishment of any district the Secretary shall give notice by publication in one or more newspapers of general circulation in each judicial division in which such district or any part thereof is located that after the date specified in such notice it shall be unlawful for any person to graze any class of livestock on lands in such district except under authority of a lease made or permission granted by the Secretary; and any person who willfully grazes livestock on such lands after such date and without such authority shall, upon conviction, be punished by a fine of not more than $500.

(Mar. 4, 1927, ch. 513, § 12, 44 Stat. 1454.)

CODIFICATION

Section was formerly classified to section 471k of Title 48, Territories and Insular Possessions.

### § 316*l*. Stock driveways and free grazing

**(a) Establishment, maintenance and regulation**

The Secretary may establish and maintain, and regulate the use of, stock driveways in districts and may charge a fee for or permit the free use of such driveways.

**(b) Grazing of livestock free of charge**

The Secretary may permit any person, including prospectors and miners, to graze free of

charge a small number of livestock upon any land included within any grazing district.

**(c) Grazing allotments to Eskimos or other native or half-breed**

The Secretary may in his discretion grant a permit or lease for a grazing allotment without charge on unallotted public lands to any Eskimo or other native or half-breed. Whenever such native or half-breed grazes his livestock through cooperative agreement on allotment held by other lessee or permittee, any grazing fees charged for said allotment shall be reduced in proportion to the relative number of such native owned livestock to the total number on said allotment.

(Mar. 4, 1927, ch. 513, § 13, 44 Stat. 1454.)

CODIFICATION

Section was formerly classified to section 471*l* of Title 48, Territories and Insular Possessions.

## § 316m. Hearing and appeals

(a) Any lessee of or applicant for grazing privileges, including any person described in subsection (c) of section 316*l* of this title, may procure a review of any action or decision of any officer or employee of the Interior Department in respect of such privileges, by filing with such officer as the Secretary of the Interior may designate of the local land office an application for a hearing, stating the nature of the action or decision complained of and the grounds of complaint. Upon the filing of any such application such officer of such land office shall proceed to review such action or decision as nearly as may be in accordance with the rules of practice then applicable to applications to contest entries under the public land law. Subject to such rules of practice, appeals may be taken by any party in interest from the decision of such officer to the Secretary.

(b) The Secretary shall take no action which will adversely affect rights under any lease pursuant to this subchapter until notifying the holder of such lease that such action is proposed and giving such holder an opportunity for a hearing.

(Mar. 4, 1927, ch. 513, § 14, 44 Stat. 1454; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 90–403, § 3, July 18, 1968, 82 Stat. 358.)

CODIFICATION

Section was formerly classified to section 471m of Title 48, Territories and Insular Possessions.

AMENDMENTS

1968—Pub. L. 90–403 designated existing provisions as subsec. (a) and added subsec. (b).

TRANSFER OF FUNCTIONS

"Secretary" substituted for "Commissioner of the General Land Office" and "such officer as the Secretary of the Interior may designate" and "such officer" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Office and Commissioner thereof and transferred functions of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management, and functions of Commissioner of General Land Office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

## § 316n. Administration

(a) The Secretary shall promulgate all rules and regulations necessary to the administration of this subchapter,[1] shall execute its provisions, and may (1) in accordance with the civil service laws appoint such employees and in accordance with chapter 51 and subchapter III of chapter 53 of title 5 fix their compensation, and (2) make such expenditures (including expenditures for personal service and rent at the seat of government and elsewhere, for law books, books of reference, periodicals, and for printing and binding) as may be necessary efficiently to execute the provisions of this subchapter.[1]

(b) The Secretary of Agriculture is authorized to continue investigations, experiments and demonstrations for the welfare, improvement, and increase of the reindeer industry in Alaska, and upon the request of the Secretary of the Interior to cooperate in matters pertaining to the care of plant and animal life, including reindeer.

(Mar. 4, 1927, ch. 513, § 15, 44 Stat. 1455; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original "this title" and has been translated as if the reference was to "this Act" to reflect the probable intent of Congress inasmuch as the act of Mar. 4, 1927, was not divided into titles.

CODIFICATION

In subsec. (a), "chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification act of 1949, as amended" on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 471n of Title 48, Territories and Insular Possessions.

AMENDMENTS

1949—Subsec. (a). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89–554, § 8, Sept. 6, 1966, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

## § 316*o*. Laws applicable

Laws now applicable to lands or resources in the Territory of Alaska shall continue in force and effect to the same extent and in the same manner after March 4, 1927, as before, and nothing in this subchapter shall preclude or prevent ingress or egress upon the lands in districts for any purpose authorized by any such law, including prospecting for and extraction of minerals.

(Mar. 4, 1927, ch. 513, § 16, 44 Stat. 1455.)

[1] See References in Text note below.

CODIFICATION

Section was formerly classified to section 471*o* of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

## CHAPTER 9—DESERT-LAND ENTRIES

Sec.
321. Entry right generally; extent of right to appropriate waters.
322. Desert lands defined; question how determined.
323. Application to certain States.
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336. Further extension in addition to that authorized by sections 333 to 335 of this title.
336a to 336d. Repealed or Omitted.
337. Entry, after expenditures, perfected as homestead entry.
338. Election to perfect entry; final proof.
339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338.

### § 321. Entry right generally; extent of right to appropriate waters

It shall be lawful for any citizen of the United States, or any person of requisite age ''who may be entitled to become a citizen, and who has filed his declaration to become such'' and upon payment of 25 cents per acre—to file a declaration under oath with the officer designated by the Secretary of the Interior of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one-half section, by conducting water upon the same, within the period of three years thereafter: *Provided*, *however*, That the right to the use of water by the person so conducting the same, on or to any tract of desert land of three hundred and twenty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said one-half section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation of said tract of land in the manner aforesaid, and upon the payment to such officer of the additional sum of $1 per acre for a tract of land not exceeding three hundred and twenty acres to any one person, a patent for the same shall be issued to him. Except as provided in section 3 of the Act of June 16, 1955, as amended, no person may make more than one entry under sections 321 to 323, 325, and 327 to 329 of this title. However, in that entry one or more tracts may be included, and the tracts so entered need not be contiguous. The aggregate acreage of desert land which may be entered by any one person under this section shall not exceed three hundred and twenty acres, and all the tracts entered by one person shall be sufficiently close to each other to be managed satisfactorily as an economic unit, as determined under rules and regulations issued by the Secretary of the Interior.

(Mar. 3, 1877, ch. 107, § 1, 19 Stat. 377; Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 85–641, § 1, Aug. 14, 1958, 72 Stat. 596.)

REFERENCES IN TEXT

Section 3 of the Act of June 16, 1955, referred to in text, is section 3 of act June 16, 1955, ch. 145, 69 Stat. 138, as amended, which is set out as an Additional Desert-Land Entry note under section 83 of Title 30, Mineral Lands and Mining.

CODIFICATION

The original text provided for the sale of 640 acres. The aggregate quantity which any person could acquire under all the land laws was limited, however, to 320 acres by act Aug. 30, 1890 (set out as section 212 of this title) except in the case of mineral lands.

AMENDMENTS

1958—Pub. L. 85–641 permitted entry on one or more tracts, not contiguous, but sufficiently close to each other to be managed satisfactorily as an economic unit.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' and ''such officer'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

ARIZONA ENTRIES DEPENDENT UPON PERCOLATING WATERS

Act Aug. 4, 1955, ch. 548, 69 Stat. 491, provided: ''The requirement of section 1 of the Desert Land Act of March 3, 1877 (19 Stat. 377) [this section], that the right to the use of water by a desert land entryman 'shall depend upon bona fide prior appropriation' shall be waived in the case of all desert land entries which have heretofore been allowed and are subsisting on the effective date of this Act [Aug. 4, 1955] which are dependent upon percolating waters for their reclamation, and which are situated in the State of Arizona under the laws of which the percolating waters upon which the entries are dependent are not subject to the doctrine of prior appropriation but are usable under State law for irrigation and reclamation purposes.''

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 322. Desert lands defined; question how determined

All lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of sections 321 to 323, 325, and 327 to 329 of this title, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

The determination of what may be considered desert land shall be subject to the decision and regulation of the Secretary of the Interior or such officer as he may designate.

(Mar. 3, 1877, ch. 107, §§ 2, 3, 19 Stat. 377; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

The first paragraph of this section is from section 2 of act Mar. 3, 1877.

The second paragraph of this section is from the last clause of section 3 of act Mar. 3, 1877. The first clause of section 3 is incorporated in section 323 of this title.

TRANSFER OF FUNCTIONS

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Office and Commissioner thereof and transferred functions of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 323. Application to certain States

Sections 321 to 323, 325, and 327 to 329 of this title shall only apply to and take effect in the States of California, Colorado, Oregon, Nevada, Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and North and South Dakota.

(Mar. 3, 1877, ch. 107, §§ 3, 8, 19 Stat. 377; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097; Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

CODIFICATION

Section is from the first clause of section 3 of act Mar. 3, 1877, and the first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891.

The second clauses of section 3 and 8 of act Mar. 3, 1877, are incorporated in the second paragraph of section 322 and section 325 of this title, respectively.

The first clause of section 3 of act Mar. 3, 1877, provided that ''this act shall only apply to and take effect in the States of California, Oregon and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota''.

The first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891, provided for the inclusion of Colorado.

The Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota have become States since the enactment of act Mar. 3, 1877, the Territory of Dakota being divided, to form the States of North and South Dakota.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 324. Assignment of entries

No assignment after March 28, 1908, of an entry made under sections 321 to 323, 325, and 327 to 329 of this title shall be allowed or recognized, except it be to an individual who is shown to be qualified to make entry under said sections of the land covered by the assigned entry, and such assignments may include all or part of an entry; but no assignment to or for the benefit of any corporation or association shall be authorized or recognized.

(Mar. 28, 1908, ch. 112, § 2, 35 Stat. 52.)

### § 325. Resident citizenship of State as qualification for entry

Excepting in the State of Nevada, no person shall be entitled to make entry of desert lands unless he be a resident citizen of the State or Territory in which the land sought to be entered is located.

(Mar. 3, 1877, ch. 107, § 8, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097; amended Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

CODIFICATION

Section is comprised of the second clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891. The first clause of section 8 of act Mar. 3, 1877, is incorporated in section 323 of this title.

Act Jan. 6, 1921, inserted introductory exception phrase.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 326. Unsurveyed lands not subject to entry; preferential right of entry after survey

From and after March 28, 1908, the right to make entry of desert lands under the provisions of sections 321 to 323, 325, and 327 to 329 of this title, shall be restricted to surveyed public lands of the character contemplated by said sections, and no such entries of unsurveyed lands shall be allowed or made of record: *Provided, however*,

That any individual qualified to make entry of desert lands under said sections who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith commenced the work of reclaiming the same, shall have the preference right to make entry of such tract under said sections, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office.

(Mar. 28, 1908, ch. 112, § 1, 35 Stat. 52.)

### § 327. Filing irrigation plan; association of entrymen

At the time of filing the declaration required in section 321 of this title the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural corps, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections, of desert lands, may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

(Mar. 3, 1877, ch. 107, § 4, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096.)

EXISTING CLAIMS; REPEALS

Section 6 of act Mar. 3, 1877, as added by act Mar. 3, 1891, § 2, provided that existing claims should not be affected by act Mar. 3, 1891, but might be perfected under sections 321 to 323 of this title, or under sections 325 and 327 to 329 of this title, at the option of the claimant, and also repealed all acts and parts of acts in conflict with act Mar. 3, 1891.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 328. Expenditures and cultivation requirements

No land shall be patented to any person under sections 321 to 323, 325, and 327 to 329 of this title unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least $3 per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than $1 per acre for the purposes aforesaid; and he shall in like manner expend the sum of $1 per acre during the second and also during the third year thereafter, until the full sum of $3 per acre is so expended. Said party shall file during each year with the officer designated by the Secretary of the Interior proof, by the affidavits of two or more credible witnesses, that the full sum of $1 per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the 25 cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of $3 per acre: *Provided*, That proof be further required of the cultivation of one-eighth of the land.

(Mar. 3, 1877, ch. 107, § 5, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; amended 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding

At any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to such officer of the additional sum of $1 per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands, but this section shall not apply to entries made or initiated prior to March 3, 1891: *Provided, however*, That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under sections 321 to 323, 325, and 327 to 329 of this title shall be subject to contest, as provided by the law, relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands, and moneys paid therefor, shall be forfeited to the United States.

(Mar. 3, 1877, ch. 107, § 7, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097; amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3, 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

FIVE-YEAR PERIOD

The period of four years prescribed by this section was extended to five years as to pending entries where the time for final proof had not expired prior to Jan. 1, 1894, by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 330. Desert-land entry in addition to homestead entry

The right to make a desert-land entry shall not be denied to any applicant therefor who has already made an enlarged homestead entry of three hundred and twenty acres: *Provided*, That said applicant is a duly qualified entryman and the whole area to be acquired as an enlarged homestead entry and under the provisions of this section does not exceed four hundred and eighty acres.

(Feb. 27, 1917, ch. 134, 39 Stat. 946.)

### § 331. Reclamation requirements waived in favor of disabled soldiers, etc.

Any entryman under the desert-land laws, or any person entitled to preference right of entry under section 326 of this title, who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided*, That no such patent shall issue prior to the survey of the land.

(Mar. 1, 1921, ch. 102, § 2, as added Dec. 15, 1921, ch. 3, 42 Stat. 348.)

### § 332. Omitted

CODIFICATION

Section, act Aug. 7, 1917, ch. 48, 40 Stat. 250, suspended expenditure and cultivation requirements during World War I.

### § 333. Extension of time for completion of irrigation works

Any entryman under sections 321 to 323, 325, and 327 to 329 of this title who shall show to the satisfaction of the Secretary of the Interior or such officer as he may designate that he has in good faith complied with the terms, requirements, and provisions of said sections, but that because of some unavoidable delay in the construction of the irrigating works intended to convey water to the said lands, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said land, as required by said sections, shall, upon filing his corroborated affidavit with the land office in which said land is located, setting forth said facts, be allowed an additional period of not to exceed three years, within the discretion of the Secretary or such officer, within which to furnish proof as required by said sections of the completion of said work.

(Mar. 28, 1908, ch. 112, § 3, 35 Stat. 52; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' and ''Secretary or such officer'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Offices and Commissioner thereof and transferred function of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

OTHER EXTENSION PERIODS

Act June 24, 1921, ch. 28, 42 Stat. 66, provided that desert-land entries in certain townships in Riverside County, California, should not be canceled prior to May 1, 1923, for failure to make annual or final proof, that the requirements of the law should become operative from that date, and that a further extension might be granted.

A further extension of time to make final proof on desert-land entries in the counties of Benton, Yakima, and Klickitat, in the State of Washington, was authorized by act Feb. 28, 1911, ch. 180, 36 Stat. 960.

Previous provisions for extension of time for making final proofs under entries of desert lands in certain cases were made by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

### § 334. Further extension of time for final proofs

The Secretary of the Interior may, in his discretion, in addition to the extension authorized by section 333 of this title or other law existing prior to April 30, 1912, grant to any entryman under the desert-land laws a further extension of the time within which he is required to make final proof: *Provided*, That such entryman shall,

by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this section shall not affect contests initiated for a valid existing reason: *Provided*, That the total extension of the statutory period for making final proof that may be allowed in any one case under this section, and any other statutes existing prior to April 30, 1912, of either general or local application, shall be limited to six years in the aggregate.

(Apr. 30, 1912, ch. 101, 37 Stat. 106.)

### § 335. Further extension in cases not covered by sections 333 and 334 of this title

The Secretary of the Interior may, in his discretion, extend the time within which final proof is required to be submitted upon any lawful pending desert-land entry made prior to March 4, 1915, such extension not to exceed three years from the date of allowance thereof: *Provided*, That the entryman or his duly qualified assignee has, in good faith, complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that, if the extension is granted, he will be able to make the final proof of reclamation, irrigation, and cultivation required by law: *Provided further*, That the foregoing shall apply only to cases wherein an extension or further extension of time may not properly be allowed under sections 333 and 334 of this title or other law existing prior to March 4, 1915: *Provided further*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of second paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; third and fourth paragraphs of such section 5 are classified to sections 337 and 338 of this title, respectively.

Act Mar. 21, 1918 extended provisions to include entries made prior to Mar. 4, 1915, and added the last proviso. Act Mar. 4, 1915, related to entries made prior to July 1, 1914.

### § 336. Further extension in addition to that authorized by sections 333 to 335 of this title

The Secretary of the Interior may, in his discretion, in addition to the extensions authorized by sections 333 to 335 of this title or other law existing prior to February 25, 1925, grant to any entryman under the desert-land laws of the United States a further extension of time of not to exceed three years within which to make final proof: *Provided*, That such entryman shall, by his corroborated affidavit, filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of the irrigation works intended to convey water to the land embraced in his entry, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor: *And provided further*, That the entryman, his heirs, or his duly qualified assignee, has in good faith complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that if the extension is granted he will be able to make the final proof of reclamation, irrigation, and cultivation required by law.

(Feb. 25, 1925, ch. 329, 43 Stat. 982.)

### §§ 336a, 336b. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 336a, act July 30, 1956, ch. 778, § 1, 70 Stat. 715, related to absence during 1956 to 1959 due to economic conditions and protection of rights of entryman.

Section 336b, act July 30, 1956, ch. 778, § 2, 70 Stat. 716, related to homestead or desert land applications on file as of Mar. 1, 1956, and entries and rights of United States.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 336c. Omitted

CODIFICATION

Section, act July 30, 1956, ch. 778, § 3, 70 Stat. 716, provided that property rights of an entryman making an election under section 336a of this title or whose entry is allowed under section 336b of this title was a personal right, inheritable but not assignable.

### § 336d. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act July 30, 1956, ch. 778, § 4, 70 Stat. 716, set forth lands subject to protection of rights of entryman.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 337. Entry, after expenditures, perfected as homestead entry

Where it shall be made to appear to the satisfaction of the Secretary of the Interior, under rules and regulations to be prescribed by him, with reference to any lawful pending desert-land entry made prior to March 4, 1915, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1915, has, in good faith, expended the sum of $3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that, if the extension allowed by section 335 of this title or any law existing prior to March 4, 1915, were granted, he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee five years from notice within which to perfect the entry in the manner required of a homestead entryman: *Provided*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of third paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; second and fourth pars. of such section 5 are classified to sections 335 and 338 of this title, respectively.

Act Mar. 21, 1918 extended the provisions to include entries made prior to Mar. 4, 1915 and added the last proviso. Act Mar. 4, 1915 related to entries made prior to July 1, 1914.

### § 338. Election to perfect entry; final proof

Any desert-land entryman or his assignee entitled to the benefit of section 337 of this title may, if he shall so elect within sixty days from the notice therein provided, pay to the officer designated by the Secretary of the Interior of the local land office the sum of 50 cents per acre for each acre embraced in the entry, and thereafter perfect such entry upon proof that he has upon the tract permanent improvements conducive to the agricultural development thereof of the value of not less than $1.25 per acre, and that he has, in good faith, used the land for agricultural purposes for three years and the payment to the officer, at the time of final proof, of the sum of 75 cents per acre: *Provided*, That in such case final proof may be submitted at any time within five years from the date of the entryman's election to proceed as provided in this section, and in the event of failure to perfect the entry as herein provided, all moneys theretofore paid shall be forfeited and the entry canceled: *Provided*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1162; Mar. 21, 1918, ch. 26, 40 Stat. 458; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section is comprised of fourth paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; second and third paragraphs of such section 5 are classified to sections 335 and 337 of this title, respectively.

Act Mar. 21, 1918 added the last proviso.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3, of 1946, set out as a note under section 1 of this title.

Previously, references to ''receiver'' changed to ''register'' by acts Oct. 28, 1921, and Mar. 3, 1925, which consolidated offices of register and receiver and provided for a single officer to be known as register.

### § 339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338

Where it shall be made to appear to the satisfaction of the Secretary of the Interior with reference to any lawful pending desert-land entry made prior to July 1, 1925, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1929, has in good faith expended the sum of $3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee ninety days from notice within which to pay to the officer designated by the Secretary of the Interior of the United States land office 25 cents an acre for the land embraced in the entry and to file an election to perfect title to the entry under the provisions of this section, and thereafter within one year from the date of filing of such election to pay to such officer the additional amount of 75 cents an acre, which shall entitle him to a patent for the land: *Provided*, That in case the final payment be not made within the time prescribed the entry shall be canceled and all money theretofore paid shall be forfeited.

(Mar. 4, 1929, ch. 687, 45 Stat. 1548; Feb. 14, 1934, ch. 9, 48 Stat. 349; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' and ''such officer'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

## CHAPTER 10—UNDERGROUND-WATER RECLAMATION GRANTS

### §§ 351 to 355. Repealed. Pub. L. 88–417, § 1, Aug. 11, 1964, 78 Stat. 389

Section 351, act Oct. 22, 1919, ch. 77, §1, 41 Stat. 293, authorized Secretary of the Interior to grant permits to explore for underground water.

Section 352, acts Oct. 22, 1919, ch. 77, §2, 41 Stat. 294; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to designation by Secretary of lands subject to disposal.

Section 353, acts Oct. 22, 1919, ch. 77, §3, 41 Stat. 294; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to application for permit to explore for under-ground water.

Section 354, act Oct. 22, 1919, ch. 77, §4, 41 Stat. 294, related to conditions of permit and its cancellation for failure to meet them.

Section 355, act Oct. 22, 1919, ch. 77, §5, 41 Stat. 294, related to issuance of a patent to land on the development of a water supply.

SAVINGS PROVISION

Section 1 of Pub. L. 88–417 provided: ''That, subject to any valid rights and obligations existing on the date of approval of this Act [Aug. 11, 1964], the Act of October 22, 1919 (41 Stat. 293; 43 U.S.C. 351–355, 357–360), is hereby repealed.''

PROCESSING OF APPLICATIONS FILED PRIOR TO AUGUST 11, 1964

Section 2 of Pub. L. 88–417 provided that: ''Any valid application for permit under that Act [this chapter], on file with the Secretary of the Interior on the effective date of this Act [Aug. 11, 1964], may be processed in the same manner as if this Act [repealing sections 351 to 355 and 357 to 360 of this title] had not been enacted.''

### § 356. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act Sept. 22, 1922, ch. 400, 42 Stat. 1012, extended time for development of underground water supplies with reclamation grants.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 357 to 360. Repealed. Pub. L. 88–417, § 1, Aug. 11, 1964, 78 Stat. 389

Section 357, act Oct. 22, 1919, ch. 77, §6, 41 Stat. 294, provided for disposition of land not included in patents.

Section 358, act Oct. 22, 1919, ch. 77, §7, 41 Stat. 295, provided for payment of proceeds of land sales into reclamation fund.

Section 359, acts Oct. 22, 1919, ch. 77, §8, 41 Stat. 295; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided for reservation to the United States of coal and mineral rights, and for disposition of such reserved rights.

Section 360, act Oct. 22, 1919, ch. 77, §9, 41 Stat. 295, authorized Secretary to prescribe rules and regulations.

SAVINGS PROVISION

Sections repealed subject to valid rights and obligations existing on Aug. 11, 1964, see section 1 of Pub. L. 88–417, set out as a note under sections 351 to 355 of this title.

PROCESSING OF PENDING APPLICATIONS

Processing of applications filed prior to Aug. 11, 1964, to be in same manner as if Pub. L. 88–417 had not been enacted, see section 2 of Pub. L. 88–417, set out as a note under sections 351 to 355 of this title.

## CHAPTER 11—DISCOVERY, DEVELOPMENT, AND MARKING OF WATER HOLES, ETC., BY GOVERNMENT

Sec.
361. Authority to explore for, develop, and mark water holes, etc.
362. Injury to signposts and filling up or fouling water supply.
363. Rules and regulations by Secretary.

### § 361. Authority to explore for, develop, and mark water holes, etc.

The Secretary of the Interior is authorized and empowered, in his discretion in so far as the authorization made herein will permit, to discover, develop, protect, and render more accessible for the benefit of the general public, springs, streams, and water holes on arid public lands of the United States; and in connection therewith to erect and maintain suitable and durable monuments and signboards at proper places and intervals along and near the accustomed lines of travel and over the general area of said desert lands, containing information and directions as to the location and nature of said springs, streams, and water holes, to the end that the same may be more readily traced and found by persons in search or need thereof; also to provide convenient and ready means, apparatus, and appliances by which water may be brought to the earth's surface at said water holes for the use of such persons; also to prepare and distribute suitable maps, reports, and general information relating to said springs, streams, and water holes, and their specific location with reference to lines of travel.

(Aug. 21, 1916, ch. 360, §1, 39 Stat. 518.)

### § 362. Injury to signposts and filling up or fouling water supply

Whoever shall willfully or maliciously injure, destroy, deface, or remove any of said monuments or signposts, or shall willfully or maliciously fill up, render foul, or in anywise destroy or impair the utility of said springs, streams, or water holes, or shall willfully or maliciously interfere with said monuments, signposts, streams, springs, or water holes, or the purposes for which they are maintained and used, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

(Aug. 21, 1916, ch. 360, § 3, 39 Stat. 518.)

### § 363. Rules and regulations by Secretary

The Secretary of the Interior is authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this chapter into full force and effect.

(Aug. 21, 1916, ch. 360, § 4, 39 Stat. 518.)

## CHAPTER 11A—BOARD ON GEOGRAPHIC NAMES

Sec.
364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior.
364a. Board on Geographic Names; establishment and membership; appointment and term of office.
364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board.
364c. Studies, investigations, and records; staff assistance; advisory committees.
364d. Promulgation of decisions; furnishing information.
364e. Standardization of geographic names; abolition of United States Board on Geographical Names in Department of the Interior; transfer of duties.
364f. Application to naming of offices or establishments.

### § 364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior

The Secretary of the Interior, hereinafter called the Secretary, conjointly with the Board on Geographic Names, as hereinafter provided, shall provide for uniformity in geographic nomenclature and orthography throughout the Federal Government. The Secretary may exercise his functions through such officials as he may designate, except that such authority as relates to the final approval or review of actions of the Board on Geographic Names shall be exercised by him, or his Under or Assistant Secretaries.

(July 25, 1947, ch. 330, § 1, 61 Stat. 456.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 8 of act July 25, 1947, authorized appropriation of such sums as might be necessary to carry out the purposes of this chapter.

### § 364a. Board on Geographic Names; establishment and membership; appointment and term of office

There is established a Board on Geographic Names, hereinafter called the Board. The membership of the Board shall include one representative from each of the Departments of State, Defense, Interior, Agriculture, and Commerce, and from the Government Printing Office, the United States Postal Service, and the Library of Congress. The Board may also include representatives from such Federal agencies as the Secretary, upon recommendation of the Board, shall from time to time find desirable, even though these agencies are in the departments otherwise represented on the Board. The members of the Board shall be appointed by the respective heads of the departments or independent agencies that they represent. Each member shall be appointed for a two-year term but may be reappointed to successive terms. The members of the Board shall serve without additional compensation. The Board shall nominate a Chairman to be appointed by the Secretary, and shall establish such working committees as are found desirable.

(July 25, 1947, ch. 330, § 2, 61 Stat. 456; Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579; Pub. L. 91–375, §§ 4(a), 6(*o*), Aug. 12, 1970, 84 Stat. 773, 783.)

AMENDMENTS

1949—Act Aug. 10, 1949, established Department of Defense as an Executive Department and reduced Departments of the Army, Navy, and Air Force to status of military departments in Department of Defense.

CHANGE OF NAME

"United States Postal Service" substituted in text for "Post Office Department" pursuant to Pub. L. 91–375, §§ 4(a), 6(*o*), Aug. 12, 1970, 84 Stat. 773, 783, which are set out as notes preceding section 101 of Title 39, Postal Service, and under section 201 of Title 39, respectively, which abolished Post Office Department, transferred its functions to United States Postal Service, and provided that references in other laws to Post Office Department be considered a reference to United States Postal Service.

### § 364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board

The Board, subject to the approval of the Secretary, shall formulate principles, policies, and procedures to be followed with reference to both domestic and foreign geographic names; and shall decide the standard names and their orthography for official use. The principles, policies, and procedures formulated hereunder shall be designed to serve the interests of the Federal Government and the general public, to enlist the effective cooperation of the Federal departments and agencies most concerned, and to give full consideration to the specific interests of particular Federal and State agencies. Action may be taken by the Secretary in any matter wherein the Board does not act within a reasonable time. The Board may make such recommendations to the Secretary as it finds appropriate in connection with this chapter.

(July 25, 1947, ch. 330, § 3, 61 Stat. 456.)

### § 364c. Studies, investigations, and records; staff assistance; advisory committees

The Secretary shall cause such studies and investigations to be made and such records to be kept as may be necessary or desirable in carrying out the purposes of this chapter, and he shall provide a place of meeting and staff assistance to the Board. The staff shall be responsible to the Secretary, who shall prescribe its relations

to the Board and the committees of the Board. The Secretary may establish from time to time, upon recommendation of the Board, advisory committees of United States citizens who are recognized experts in their respective fields to assist in the solution of special problems arising under this chapter.

(July 25, 1947, ch. 330, § 4, 61 Stat. 456.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 364d. Promulgation of decisions; furnishing information

For the guidance of the Federal Government, the Secretary shall promulgate in the name of the Board, from time to time and in such form as will carry out the purposes of this chapter, decisions with respect to geographic names and principles of geographic nomenclature and orthography. The Secretary shall also furnish such additional information with respect to geographic names as will assist in carrying out the purposes of this chapter.

(July 25, 1947, ch. 330, § 5, 61 Stat. 457.)

### § 364e. Standardization of geographic names; abolition of United States Board on Geographical Names in Department of the Interior; transfer of duties

With respect to geographic names the pertinent decisions and principles issued by the Secretary shall be standard for all material published by the Federal Government. The United States Board on Geographical Names in the Department of the Interior created by Executive order, is abolished, and the duties of said Board are transferred to the Board herein created, and all departments, bureaus, and agencies of the Federal Government shall refer all geographic names and problems to the said Board for the purpose of eliminating duplication of work, personnel, and authority.

(July 25, 1947, ch. 330, § 6, 61 Stat. 457.)

### § 364f. Application to naming of offices or establishments

Nothing in this chapter shall be construed as applying to the naming of the offices or establishments of any Federal agency.

(July 25, 1947, ch. 330, § 7, 61 Stat. 457.)

## CHAPTER 12—RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT

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## SUBCHAPTER I—GENERAL PROVISIONS

### § 371. Definitions

When used in sections 371, 376, 377, 412, 417, 433, 462, 466, 478, 493, 494, 500, 501, and 526 of this title—

(a) The word ''Secretary'' means the Secretary of the Interior.

(b) The words ''reclamation law'' mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

(c) The words ''reclamation fund'' mean the fund provided by the reclamation law.

(d) The word ''project'' means a Federal irrigation project authorized by the reclamation law.

(e) The words ''division of a project'' mean a substantial irrigable area of a project designated as a division by order of the Secretary.

(Dec. 5, 1924, ch. 4, § 4, subsec. A, 43 Stat. 701.)

REFERENCES IN TEXT

Act June 17, 1902, referred to in par. (b), is popularly known as the Reclamation Act or National Irrigation Act of 1902, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–11, title X, § 10301, Mar. 30, 2009, 123 Stat. 1367, provided that: ''This subtitle [subtitle B (§§ 10301–10704) of title X of Pub. L. 111–11, enacting section 407, former section 615jj, and section 620n–1 of this title, amending former section 615ss and sections 620 and 620*o* of this title, repealing former section 615jj of this title, and enacting provisions set out as notes under sections 407 and 620 of this title] may be cited as the 'Northwestern New Mexico Rural Water Projects Act'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–575, § 1, Oct. 30, 1992, 106 Stat. 4600, provided that: ''This Act [enacting sections 390h to 390h–15 of this title and sections 460*l*–31 to 460*l*–34, 470h–4, 470h–5, and 470x to 470x–6 of Title 16, Conservation, amending sections 390g–2, 390g–3, 390g–5, 1521, and 1524 of this title, sections 460*l*–13 to 460*l*–15, 460*l*–18, 466, 470–1, 470a, 470b, 470c, 470h, 470h–2, 470h–3, 470i, 470s, 470t, 470w, and 470w–3 of Title 16, and section 390 of Title 25, Indians, enacting provisions set out as notes under this section and sections 390h, 620k, 1521, and 1524 of this title, sections 460*l*–31, 470, and 470a of Title 16, and section 390 of Title 25, and amending provisions set out as a note under section 461 of Title 16] may be cited as the 'Reclamation Projects Authorization and Adjustment Act of 1992'.''

SHORT TITLE OF 1984 AMENDMENTS

For short title of Pub. L. 98–434 as the ''High Plains States Groundwater Demonstration Program Act of 1983'', see section 1 of Pub. L. 98–434, set out as a Short Title note under section 390g of this title.

For short title of Pub. L. 98–404 as ''The Reclamation Safety of Dams Act Amendments of 1984'', see section 1 of Pub. L. 98–404, set out as a note under section 506 of this title.

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95–578 as the ''Reclamation Safety of Dams Act of 1978'', see section 1 of Pub. L. 95–578, set out as a note under section 506 of this title.

SHORT TITLE OF 1958 AMENDMENT

For short title of title III of Pub. L. 85–500, which enacted section 390b of this title, as the ''Water Supply Act of 1958'', see section 302 of Pub. L. 85–500, set out as a Short Title note under section 390b of this title.

SHORT TITLE

Act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which enacted sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 476, 491, and 498 of this title, is popularly known as the ''Reclamation Act'' or ''National Irrigation Act of 1902''.

Act Dec. 5, 1924, ch. 4, § 4, 43 Stat. 701, as amended, which enacted this section and sections 376, 377, 412, 417, 433, 438, 462, 463, 466, 467, 473, 474, 478, 493, 494, 500, 501, and 526 of this title, is popularly known as the ''Fact Finders' Act''.

WESTERN WATER POLICY REVIEW

Pub. L. 104–46, title V, § 502, Nov. 13, 1995, 109 Stat. 419, provided that: ''Notwithstanding the provisions of any other law, the report referred to in title 30 [XXX] of Public Law 102–575 [set out below] shall be submitted within five years from the date of enactment of that Act [Oct. 30, 1992].''

Pub. L. 102–575, title XXX, Oct. 30, 1992, 106 Stat. 4693, as amended by Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594, provided that:

''SEC. 3001. SHORT TITLE.

''This title may be cited as the 'Western Water Policy Review Act of 1992'.

''SEC. 3002. CONGRESSIONAL FINDINGS.

''The Congress finds that—

''(1) the Nation needs an adequate water supply for all states [States] at a reasonable cost;

''(2) the demands on the Nation's finite water supply are increasing;

''(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

''(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

''(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

''(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

''(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

''(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States, except to the extent such jurisdiction has been preempted in whole or in part by the Federal Government, including, but not limited to, express or implied Federal reserved water rights either for itself or for the benefit of Indian Tribes, and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

''(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

''(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major

responsibilities in assisting States in the wise management and allocation of scarce water resources; and

''(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey [now United States Geological Survey], and the Secretary of the Army, given his responsibilities for flood control, water supply, hydroelectric power, recreation, and fish and wildlife enhancement, have the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

''SEC. 3003. PRESIDENTIAL REVIEW.

''(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources, Environment and Public Works and Appropriations of the Senate and the Committees on Natural Resources, Public Works and Transportation [now Transportation and Infrastructure], Merchant Marine and Fisheries and Appropriations of the House of Representatives.

''(b) Such report shall be submitted within three years from the date of enactment of this Act [Oct. 30, 1992].

''(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3004 of this title, and may request the Secretary of the Interior and the Secretary of the Army or other Federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

''(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

''SEC. 3004. THE ADVISORY COMMISSION.

''(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the 'Commission') to assist in the preparation and review of the report required under this title.

''(b) The Commission shall be composed of eighteen members as follows:

''(1) Ten members appointed by the President including:

''(A) the Secretary of the Interior or his designee;

''(B) the Secretary of the Army or his designee;

''(C) at least one representative chosen from a list submitted by the Western Governors Association; and

''(D) at least one representative chosen from a list submitted by Tribal governments located in the Western States.

''(2) In addition to the ten members appointed by the President, twelve Members from the United States Congress shall serve as ex officio members of the Commission. For the United States Senate: the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources, and Appropriations, and the Subcommittee of the Committee on Energy and Natural Resources which has jurisdiction over the Bureau of Reclamation. For the United States House of Representatives: the Chairman [Chairmen] and Ranking Minority Members of the Committees on Natural Resources, Public Works and Transportation [now Transportation and Infrastructure], and Appropriations.

''(c) The President shall appoint one member of the Commission to serve as Chairman.

''(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

''(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

''SEC. 3005. DUTIES OF THE COMMISSION.

''The Commission shall—

''(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

''(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

''(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

''(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

''(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law and the Secretary of the Army under water resources law;

''(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

''(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation, the Department of the Army, and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

''SEC. 3006. REPRESENTATIVES.

''(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

''(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

''SEC. 3007. POWERS OF THE COMMISSION.

''(a) The Commission may—

''(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

''(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

''(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

''(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

''(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

''(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for level II of the Executive Schedule.

''(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel cannot be obtained from the Secretary of the Interior or by detail from other Federal agencies. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

''(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

''(d) The Secretary of the Interior and the Secretary of the Army shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

''SEC. 3008. POWERS AND DUTIES OF THE CHAIRMAN.

''(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3007(a).

''(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

''SEC. 3009. OTHER FEDERAL AGENCIES.

''(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

''(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

''(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3007(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

''(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

''(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

''SEC. 3010. APPROPRIATIONS.

''There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of sections 3001 through 3009 of this title.''

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

[Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.]

## § 372. Water right as appurtenant to land and extent of right

The right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right.

(June 17, 1902, ch. 1093, § 8, 32 Stat. 390.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of the proviso in section 8 of act June 17, 1902. Remainder of section 8 is classified to section 383 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

## § 373. General authority of Secretary of the Interior

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying out the provisions of this Act into full force and effect.

(June 17, 1902, ch. 1093, § 10, 32 Stat. 390; Aug. 13, 1914, ch. 247, § 15, 38 Stat. 690.)

REFERENCES IN TEXT

This Act, referred to in text, refers both to act June 17, 1902, popularly known as the Reclamation Act, and to act Aug. 13, 1914. See Codification note set out below. For classification of act June 17, 1902 to the Code, see Short Title note set out under section 371 of this title and Tables. Act Aug. 13, 1914, is classified to sections 373, 414, 418, 435 to 437, 440, 443, 464, 465, 469, 471, 472, 475, 477 to 481, 492, 493, 494 to 497, and 499 of this title.

CODIFICATION

Act Aug. 13, 1914, cited as a credit to this section, did not amend act July 17, 1902, but contained identical provisions.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 373a. Commissioner of Reclamation; appointment

Under the supervision and direction of the Secretary of the Interior, the reclamation of arid lands, under the Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto, shall be administered by a Commissioner of Reclamation who shall be appointed by the President by and with the advice and consent of the Senate.

(May 26, 1926, ch. 401, 44 Stat. 657; Pub. L. 97–293, title II, § 229, Oct. 12, 1982, 96 Stat. 1274.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Provisions of this section which prescribed the basic compensation of Commissioner were omitted to conform to the provisions of the Executive Schedule. See section 5316 of Title 5, Government Organization and Employees.

AMENDMENTS

1982—Pub. L. 97–293 inserted requirement that Commissioner of Reclamation be appointed by and with advice and consent of Senate.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

USE OF PRIVATE SECTOR

Pub. L. 108–7, div. D, title II, § 208, Feb. 20, 2003, 117 Stat. 146, provided that: ''The Commissioner of the Bureau of Reclamation is directed to increase the use of the private sector in performing planning, engineering and design work for Bureau of Reclamation projects to 10 percent in fiscal year 2003, and in each subsequent year until the level of work is at least 40 percent for the planning, engineering and design work conducted by the Bureau of Reclamation.''

COMPENSATION OF COMMISSIONER

Compensation of Commissioner, see section 5316 of Title 5, Government Organization and Employees.

### § 373a–1. Repealed. Pub. L. 88–426, title III, § 305(35), Aug. 14, 1964, 78 Stat. 426

Section, Pub. L. 87–880, title II, § 200, Oct. 24, 1962, 76 Stat. 1223, prescribed compensation of Commissioner of Reclamation. See section 5316 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF REPEAL

Repeal effective on first day of first pay period which begins on or after July 1, 1964, see section 501 of Pub. L. 88–426.

### § 373b. Law enforcement authority at Bureau of Reclamation facilities

**(a) Public safety regulations**

The Secretary of the Interior shall issue regulations necessary to maintain law and order and protect persons and property within Reclamation projects and on Reclamation lands.

**(b) Violations; criminal penalties**

Any person who knowingly and willfully violates any regulation issued under subsection (a) of this section shall be fined under chapter 227, subchapter C of title 18, imprisoned for not more than 6 months, or both. Any person charged with a violation of a regulation issued under subsection (a) of this section may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18.

**(c) Authorization of law enforcement officers**

The Secretary of the Interior may—

(1) authorize law enforcement personnel from the Department of the Interior to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands;

(2) authorize law enforcement personnel of any other Federal agency that has law enforcement authority (with the exception of the Department of Defense) or law enforcement personnel of any State or local government, including an Indian tribe, when deemed economical and in the public interest, through cooperative agreement or contract, to act as law enforcement officers to enforce Federal laws and regulations within a Reclamation project or on Reclamation lands with such enforcement powers as may be so assigned to them by the Secretary;

(3) cooperate with any State or local government, including an Indian tribe, in the enforcement of the laws or ordinances of that State or local government; and

(4) provide reimbursement to a State or local government, including an Indian tribe, for expenditures incurred in connection with activities under paragraph (2).

**(d) Powers of law enforcement officers**

A law enforcement officer authorized by the Secretary of the Interior under subsection (c) of this section may—

(1) carry firearms within a Reclamation project or on Reclamation lands;

(2) make arrests without warrants for—

(A) any offense against the United States committed in his presence; or

(B) any felony cognizable under the laws of the United States if he has—

(i) reasonable grounds to believe that the person to be arrested has committed or is committing such a felony; and

(ii) such arrest occurs within a Reclamation project or on Reclamation lands or the person to be arrested is fleeing therefrom to avoid arrest;

(3) execute within a Reclamation project or on Reclamation lands any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law for any offense committed within a Reclamation project or on Reclamation lands; and

(4) conduct investigations within a Reclamation project or on Reclamation lands of offenses against the United States committed within a Reclamation project or on Reclamation lands if the Federal law enforcement agency having investigative jurisdiction over the offense committed declines to investigate the offense.

**(e) Legal status of State or local law enforcement officers**

**(1) State or local officers not Federal employees**

Except as otherwise provided in this section, a law enforcement officer of any State or local government, including an Indian tribe, authorized to act as a law enforcement officer under subsection (c) of this section shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, employment discrimination, leave, unemployment compensation, and Federal benefits.

**(2) Application of Federal Tort Claims Act**

For purposes of chapter 171 of title 28 (commonly known as the Federal Tort Claims Act), a law enforcement officer of any State or local government, including an Indian tribe, shall, when acting as a law enforcement officer under subsection (c) of this section and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be considered a Federal employee.

**(3) Availability of workers compensation**

For purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or local government, including an Indian tribe, shall, when acting as a law enforcement officer under subsection (c) of this section and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be deemed a civil service employee of the United States within the meaning of the term employee as defined in section 8101 of title 5, and the provisions of that subchapter shall apply. Benefits under such subchapter shall be reduced by the amount of any entitlement to State or local workers compensation benefits arising out of the same injury or death.

**(f) Concurrent jurisdiction**

Nothing in this section shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency, or to affect any existing right of a State or local government, including an Indian tribe, to exercise civil and criminal jurisdiction within a Reclamation project or on Reclamation lands.

**(g) Regulations**

Except for the authority provided in section 2(c)(1),[1] the law enforcement authorities provided for in this section may be exercised only pursuant to regulations issued by the Secretary of the Interior and approved by the Attorney General.

(Pub. L. 107–69, § 1, Nov. 12, 2001, 115 Stat. 593.)

[1] So in original. Probably should be ''subsection (c)(1)''.

**§ 373c. Definitions**

In this section and section 373b of this title:

**(1) Law enforcement personnel**

The term ''law enforcement personnel'' means an employee of a Federal, State, or local government agency, including an Indian tribal agency, who has successfully completed law enforcement training approved by the Secretary and is authorized to carry firearms, make arrests, and execute service of process to enforce criminal laws of his or her employing jurisdiction.

**(2) Reclamation project; reclamation lands**

The terms ''Reclamation project'' and ''Reclamation lands'' have the meaning given such terms in section 460*l*–32 of title 16.

(Pub. L. 107–69, § 2, Nov. 12, 2001, 115 Stat. 595.)

**§ 373d. Grants and cooperative agreements with Indian tribes and organizations**

In order to increase opportunities for Indian tribes to develop, manage, and protect their water resources, in fiscal year 2003 and thereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants and cooperative agreements with any Indian tribe, institution of higher education, national Indian organization, or tribal organization pursuant to sections 6301 to 6308 of title 31. Nothing in this Act is intended to modify or limit the provisions of the Indian Self Determination Act [25 U.S.C. 450f et seq.].

(Pub. L. 108–7, div. D, title II, § 201, Feb. 20, 2003, 117 Stat. 144.)

REFERENCES IN TEXT

This Act, referred to in text, means div. D of Pub. L. 108–7, Feb. 20, 2003, 117 Stat. 133, known as the Energy and Water Development Appropriations Act, 2003. For complete classification of this Act to the Code, see Tables.

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation act:

Pub. L. 107–66, title II, § 201, Nov. 12, 2001, 115 Stat. 499.

**§ 373e. Bureau of Reclamation site security**

**(a) Treatment of capital costs**

Costs incurred by the Secretary of the Interior for the physical fortification of Bureau of Reclamation facilities to satisfy increased post-September 11, 2001, security needs, including the construction, modification, upgrade, or replacement of such facility fortifications, shall be nonreimbursable.

**(b) Treatment of security-related operation and maintenance costs**

**(1) Reimbursable costs**

The Secretary of the Interior shall include no more than $18,900,000 per fiscal year, indexed each fiscal year after fiscal year 2008 according to the preceding year's Consumer Price Index, of those costs incurred for increased levels of guards and patrols, training, patrols by local and tribal law enforcement entities, operation, maintenance, and replacement of guard and response force equipment, and operation and maintenance of facility fortifications at Bureau of Reclamation facilities after the events of September 11, 2001, as reimbursable operation and maintenance costs under Reclamation law.

**(2) Costs collected through water rates**

In the case of the Central Valley Project of California, site security costs allocated to irrigation and municipal and industrial water service in accordance with this section shall be collected by the Secretary exclusively through inclusion of these costs in the operation and maintenance water rates.

**(c) Transparency and report to Congress**

**(1) Policies and procedures**

The Secretary is authorized to develop policies and procedures with project beneficiaries, consistent with the requirements of paragraphs (2) and (3), to provide for the payment of the reimbursable costs described in subsection (b).

**(2) Notice**

On identifying a Bureau of Reclamation facility for a site security measure, the Secretary shall provide to the project beneficiaries written notice—

(A) describing the need for the site security measure and the process for identifying and implementing the site security measure; and

(B) summarizing the administrative and legal requirements relating to the site security measure.

**(3) Consultation**

The Secretary shall—

(A) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the site security measure; and

(B) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in subparagraph (A).

**(4) Response; notice**

Before incurring costs pursuant to activities described in subsection (b), the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on such activities. The Secretary shall provide to the project beneficiary—

(A) a timely written response describing proposed actions, if any, to address the recommendation; and

(B) notice regarding the costs and status of such activities on a periodic basis.

**(5) Report**

The Secretary shall report annually to the Natural Resources Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate on site security actions and activities undertaken pursuant to this Act for each fiscal year. The report shall include a summary of Federal and non-Federal expenditures for the fiscal year and information relating to a 5-year planning horizon for the program, detailed to show pre-September 11, 2001, and post-September 11, 2001, costs for the site security activities.

**(d) Pre-September 11, 2001 security cost levels**

Reclamation project security costs at the levels of activity that existed prior to September 11, 2001, shall remain reimbursable.

(Pub. L. 110–229, title V, § 513, May 8, 2008, 122 Stat. 843.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(5), means Pub. L. 110–229, May 8, 2008, 122 Stat. 754, known as the Consolidated Natural Resources Act of 2008. For complete classification of this Act to the Code, see Short Title of 2008 Amendment note set out under section 1 of Title 16, Conservation, and Tables.

## § 374. Sale of lands acquired in connection with irrigation project

Whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), commonly called the ''reclamation Act,'' or under the provisions of any Act amendatory thereof or supplementary thereto, for any irrigation works contemplated by said reclamation Act are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land.

Upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided*, That not over one hundred and sixty acres shall be sold to any one person.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired.

(Feb. 2, 1911, ch. 32, §§ 1–3, 36 Stat. 895.)

REFERENCES IN TEXT

Act of June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 375. Sale of land improved at expense of reclamation fund

Whenever in the opinion of the Secretary of the Interior any public lands which have been withdrawn for or in connection with construction or operation of reclamation projects under the provisions of the Act of June 17, 1902, known as the Reclamation Act[1] and Acts amendatory thereof and supplementary thereto, which are not otherwise reserved and which have been improved by and at the expense of the reclamation fund for administration or other like purposes, are no longer needed for the purposes for which they were withdrawn and improved, the Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons to be appointed by him, and thereafter sell the same, for not less than the appraised value, at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land; not less than one-fifth the purchase price shall be paid at the time of sale, and the remainder in not more than four annual payments with interest at 6 per centum per annum, payable annually, on deferred payments.

Upon payment of the purchase price the Secretary of the Interior is authorized, by appropriate patent, to convey all the right, title, and interest of the United States in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided*, That not over one hundred and sixty acres shall be sold to any one person, and if said lands are irrigable under the project in which located they shall be sold subject to compliance by the purchaser with all the terms, conditions, and limitations of the reclamation law applicable to lands of that character: *Provided*, That the accepted bidder must, prior to issuance of patent, furnish satisfactory evidence that he or she is a citizen of the United States.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been withdrawn.

(May 20, 1920, ch. 192, §§1–3, 41 Stat. 605, 606.)

REFERENCES IN TEXT

Act of 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 375a. Sale under sections 374 and 375 of lands appraised at not exceeding $300

The Secretary in his discretion, in any instances where property to be sold under section 374 or 375 of this title, is appraised at not to exceed $300, may sell said property at public or private sale without complying with the provisions of said sections as to notice, publication, and mode of sale.

(Aug. 4, 1939, ch. 418, §11, 53 Stat. 1197.)

CODIFICATION

Section was enacted as part of the Reclamation Project Act of 1939. See sections 387 to 389 and 485 et seq. of this title.

DEFINITIONS

The definitions in section 485a of this title apply to this section.

### § 375b. Disposal of tracts too small to be classed farm units

In accordance with the provisions of sections 375b to 375f of this title and notwithstanding the provisions of any other law, the Secretary of the Interior, hereinafter styled the Secretary, is authorized, in connection with any Federal irrigation project for which water is available, and after finding that such action will be in furtherance of the irrigation project and the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplemental thereto, hereinafter styled the Reclamation Act, to dispose of any tract of withdrawn public land which, in the opinion of the Secretary, has less than sufficient acreage reasonably required for the support of a family and is too small to be opened to homestead entry and classed as a farm unit under the Reclamation Act.

(Mar. 31, 1950, ch. 78, §1, 64 Stat. 39.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 375c. Sales of small tracts to resident farm owners and entrymen; price; terms; acreage purchasable

The Secretary is authorized to sell such land to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided*, That such resident farm landowner or resident entryman shall be permitted to purchase under sections 375b to 375f of this title not more than one hundred and sixty acres of such land, or an area which, together with land already owned or entered on such project shall not exceed one hundred and sixty irrigable acres.

(Mar. 31, 1950, ch. 78, §2, 64 Stat. 39.)

### § 375d. Issuance of patent for small tracts; reservations

After the purchaser has paid to the United States all the amount on the purchase price of such land, a patent shall be issued. Such patents shall contain a reservation of a lien for water charges when deemed appropriate by the Secretary, and reservations of coal or other mineral

[1] So in original. Probably should be followed by a comma.

rights to the same extent as patents issued under the homestead laws and also other reservations, limitations, or conditions as now provided by law.

(Mar. 31, 1950, ch. 78, § 3, 64 Stat. 40.)

### § 375e. Moneys from sale of small tracts covered into reclamation fund; credit

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project on which such lands are located.

(Mar. 31, 1950, ch. 78, § 4, 64 Stat. 40.)

### § 375f. Rules and regulations

The Secretary of the Interior is authorized to perform any and all acts and to make rules and regulations necessary and proper for carrying out the purposes of sections 375b to 375f of this title.

(Mar. 31, 1950, ch. 78, § 5, 64 Stat. 40.)

### § 376. Return of land donations not needed

Where real property or any interest therein heretofore has been, or hereafter shall be, donated and conveyed to the United States for use in connection with a project, and the Secretary decides not to utilize the donation, he is authorized without charge to reconvey such property or any part thereof to the donating grantor, or to the heirs, successors, or assigns of such grantor.

(Dec. 5, 1924, ch. 4, § 4, subsec. Q, 43 Stat. 704.)

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 377. General expenses of Bureau of Reclamation chargeable to general reclamation fund

The cost and expense after June 30, 1945, of the office of the Commissioner in the District of Columbia, and, except for such cost and expense as are incurred on behalf of specific projects, of general investigations and of nonproject offices outside the District of Columbia, shall be charged to the reclamation fund and shall not be charged as a part of the reimbursable construction or operation and maintenance costs.

(Dec. 5, 1924, ch. 4, § 4, subsec. O, 43 Stat. 704; Apr. 19, 1945, ch. 80, 59 Stat. 54.)

AMENDMENTS

1945—Act Apr. 19, 1945, amended section generally and made it applicable after June 30, 1945.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 377a. Limitation on use of funds where organizations or individuals are in arrears on contract charges

No funds appropriated to the Bureau of Reclamation for operation and maintenance in this Act or in subsequent Energy and Water Development Appropriations Acts, except those derived from advances by water users, shall on and after October 2, 1992, be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

(Pub. L. 102–377, title II, Oct. 2, 1992, 106 Stat. 1331.)

CODIFICATION

Section is from the appropriation act cited as the credit to this section.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 102–104, title II, Aug. 17, 1991, 105 Stat. 525.
Pub. L. 101–514, title II, Nov. 5, 1990, 104 Stat. 2086.
Pub. L. 101–101, title II, Sept. 29, 1989, 103 Stat. 655.
Pub. L. 100–371, title II, July 19, 1988, 102 Stat. 865.
Pub. L. 100–202, § 101(d) [title II], Dec. 22, 1987, 101 Stat. 1329–104, 1329–117.
Pub. L. 99–500, § 101(e) [title II], Oct. 18, 1986, 100 Stat. 1783–194, 1783–203, and Pub. L. 99–591, § 101(e) [title II], Oct. 30, 1986, 100 Stat. 3341–194, 3341–203.
Pub. L. 99–141, title II, Nov. 1, 1985, 99 Stat. 570.
Pub. L. 98–360, title II, July 16, 1984, 98 Stat. 410.
Pub. L. 98–50, title II, July 14, 1983, 97 Stat. 253.
Pub. L. 97–88, title II, Dec. 4, 1981, 95 Stat. 1140.
Pub. L. 96–367, title III, Oct. 1, 1980, 94 Stat. 1342.
Pub. L. 96–69, title III, Sept. 25, 1979, 93 Stat. 447.
Pub. L. 95–96, title III, Aug. 7, 1977, 91 Stat. 804.
Pub. L. 94–355, title III, July 12, 1976, 90 Stat. 896.
Pub. L. 94–180, title III, Dec. 26, 1975, 89 Stat. 1043.
Pub. L. 93–393, title III, Aug. 28, 1974, 88 Stat. 788.
Pub. L. 93–97, title III, Aug. 16, 1973, 87 Stat. 324.
Pub. L. 92–405, title III, Aug. 25, 1972, 86 Stat. 627.
Pub. L. 92–134, title III, Oct. 5, 1971, 85 Stat. 371.
Pub. L. 91–349, title III, Oct. 7, 1970, 84 Stat. 899.
Pub. L. 91–144, title III, Dec. 11, 1969, 83 Stat. 332.
Pub. L. 90–479, title II, Aug. 12, 1968, 82 Stat. 711.
Pub. L. 90–147, title II, Nov. 20, 1967, 81 Stat. 478.
Pub. L. 89–689, title II, Oct. 15, 1966, 80 Stat. 1009.
Pub. L. 89–299, title II, Oct. 28, 1965, 79 Stat. 1104.
Pub. L. 88–511, title II, Aug. 30, 1964, 78 Stat. 689.
Pub. L. 88–257, title II, Dec. 31, 1963, 77 Stat. 850.
Pub. L. 87–880, title II, Oct. 24, 1962, 76 Stat. 1222.
Pub. L. 87–330, title II, Sept. 30, 1961, 75 Stat. 727.
Pub. L. 86–700, title II, Sept. 2, 1960, 74 Stat. 748.
Pub. L. 86–254, title II, Sept. 10, 1959, 73 Stat. 497.
Pub. L. 85–863, title II, Sept. 2, 1958, 72 Stat. 1577.
Pub. L. 85–167, title II, Aug. 26, 1957, 71 Stat. 421.
July 2, 1956, ch. 490, title II, 70 Stat. 478.
July 15, 1955, ch. 370, title II, 69 Stat. 359.
July 1, 1954, ch. 446, title I, 68 Stat. 368.
July 31, 1953, ch. 298, title I, 67 Stat. 268.
July 9, 1952, ch. 597, title I, 66 Stat. 453.
Aug. 31, 1951, ch. 375, title I, 65 Stat. 258.
Sept. 6, 1950, ch. 896, Ch. VII, title I, 64 Stat. 688.

### § 377b. Availability of appropriations for Bureau of Reclamation

Appropriations for the Bureau of Reclamation in this Act or in subsequent Energy and Water

Development Appropriations Acts shall on and after October 2, 1992, be available for payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation, not to exceed $5,000,000 for each causal event giving rise to a claim or claims; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by section 3109 of title 5, in total not to exceed $500,000 per year; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head ''Operation and Maintenance Administration'', Bureau of Reclamation, in the Interior Department Appropriations Act[1] 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided*, That on and after October 2, 1992, no part of any appropriation made in this Act or in subsequent Energy and Water Development Appropriations Acts shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except ''General Administrative Expenses'', amounts provided for plan formulation investigations under the head ''General Investigations'', and amounts provided for science and technology under the head ''Construction Program''.

Sums appropriated in this Act or in subsequent Energy and Water Development Appropriations Acts which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act, in any prior Act, or in subsequent Energy and Water Development Appropriations Acts which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 1341 of title 31.

None of the funds made available by this or any other Act or by any subsequent Act shall on and after October 2, 1992, be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act[2] are awarded in accordance with title IX of the Federal Property and Administrative Service[3] Act of 1949.[2]

[1] So in original. Probably should be followed by a comma.

[2] See References in Text note below.

[3] So in original. Probably should be ''Services''.

(Pub. L. 102–377, title II, Oct. 2, 1992, 106 Stat. 1330, 1331; Pub. L. 108–137, title II, § 206, Dec. 1, 2003, 117 Stat. 1849.)

REFERENCES IN TEXT

The Interior Department Appropriations Act 1945, referred to in text, is act June 28, 1944, ch. 298, 58 Stat. 463, which is not classified to the Code. The heading ''Operation and maintenance administration'' appears at 58 Stat. 487 following the heading ''Bureau of Reclamation'' which appears at 58 Stat. 486.

Act of August 21, 1935, referred to in text, is act Aug. 21, 1935, ch. 593, 49 Stat. 666, popularly known as the Historic Sites, Buildings and Antiquities Act, which is classified generally to sections 461 to 467 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 16 and Tables.

Act of June 27, 1960, referred to in text, is Pub. L. 86–523, June 27, 1960, 74 Stat. 220, which enacted sections 469 to 469c–1 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

Act of April 19, 1945 (43 U.S.C. 377), referred to in text, is act April 19, 1945, ch. 80, 59 Stat. 54, which amended section 377 of this title. For complete classification of this Act to the Code, see Tables.

The date of this Act, referred to in text, probably means the date of enactment of Pub. L. 102–377, which enacted this section, and which was approved Oct. 2, 1992.

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377. Title IX of the Act, which was classified generally to subchapter VI (§ 541 et seq.) of chapter 10 of former Title 40, Public Buildings, Property, and Works, was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapter 11 (§ 1101 et seq.) of Title 40, Public Buildings, Property, and Works. For disposition of sections of former Title 40 to revised Title 40, see Table preceding section 101 of Title 40. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of the second, third, fourth, and sixth undesignated pars. under headings ''BUREAU OF RECLAMATION'' and ''ADMINISTRATIVE PROVISIONS'' in title II of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1330, 1331.

AMENDMENTS

2003—Pub. L. 108–137 inserted in first par. '', not to exceed $5,000,000 for each causal event giving rise to a claim or claims'' after ''activities of the Bureau of Reclamation''.

## § 378. Omitted

CODIFICATION

Section, act June 30, 1906, ch. 3912, 34 Stat. 663, authorized Secretary of the Interior to contract for office accommodations for Bureau of Reclamation in city of Washington. Construction of a building to afford office space for the bureau was authorized by act Mar. 4, 1913, ch. 147, § 9, 37 Stat. 880.

## § 379. Purchase of scientific books, law books, etc.

The Secretary of the Interior may authorize the purchase of such law books, books of reference, periodicals, engineering and statistical publications as are needed in carrying out the surveys and examinations authorized by the Act of June seventeenth, nineteen hundred and two, entitled ''An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories for the construction

of irrigation works for the reclamation of arid lands.''

(May 27, 1908, ch. 200, 35 Stat. 350.)

REFERENCES IN TEXT

Act of June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 380. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act July 1, 1918, ch. 113, 40 Stat. 675, authorized purchases and procurement of services without advertising and formal contract.

### §§ 380a, 380b. Omitted

CODIFICATION

Section 380a, acts Aug. 4, 1939, ch. 418, § 13, 53 Stat. 1197; Oct. 10, 1940, ch. 851, § 4, 54 Stat. 1111, authorized purchases by Bureau of Reclamation without compliance with section 16 of former Title 41, Public Contracts.

Section 380b, act July 9, 1952, ch. 597, title I, 66 Stat. 453, which authorized transfer of surplus aircraft parts and equipment to Bureau of Reclamation was from the Interior Department Appropriation Act, 1953, and was not repeated in subsequent appropriation acts.

A prior section 380b, act Aug. 31, 1951, ch. 375, title I, 65 Stat. 257, contained provisions similar to section 380b.

### § 381. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 639

Section, acts June 17, 1902, ch. 1093, § 5, 32 Stat. 389; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145, provided for commissions of registers and receivers of land offices.

### § 382. Repealed. Pub. L. 87–304, § 9(a)(3), Sept. 26, 1961, 75 Stat. 664

Section, act May 27, 1908, ch. 200, 35 Stat. 350, related to assignment of pay by employees of Bureau of Reclamation. See section 5525 of Title 5, Government Organization and Employees.

### § 383. Vested rights and State laws unaffected

Nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof.

(June 17, 1902, ch. 1093, § 8, 32 Stat. 390.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of section 8 (less proviso) of act June 17, 1902. The remainder of section 8 is classified to section 372 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 384. Extension of time for payment of charges accrued prior to March 2, 1924, and January 1, 1925

(a) The Secretary of the Interior is authorized and empowered, in his discretion, to defer the dates of payments of any charges, rentals, and penalties which have accrued prior to the 2d day of March, 1924, under the Act of June 17, 1902 (32 Stat. 388), and amendatory and supplemental acts or prior to that date, as against water users on any irrigation project being constructed or operated and maintained under the direction of the Commissioner of Indian Affairs, as may, in his judgment, be necessary in or concerning any irrigation project existing on May 9, 1924, under said act: *Provided*, That no payment shall be deferred under this section in any particular case beyond March 1, 1927: *Provided*, That upon such adjustment being made, any penalties or interest which may have accrued in connection with such unpaid construction and operation and maintenance charges shall be canceled, and in lieu thereof the amount so due, and the payment of which is hereby extended, shall draw interest at the rate of 5 per centum per annum, paid annually from the time said amount became due to date of payment: *And provided further*, That in case the principal and interest herein provided for are not paid in the manner and at the time provided by this section, any penalty provided by the law in effect on May 9, 1924, shall thereupon attach from the date of such default.

(b) Where an individual water user, or individual applicant for a water right under a Federal irrigation project constructed or being constructed under the Act of June 17, 1902 (32 Stat. 388), or any act amendatory thereof or supplementary thereto, makes application prior to January 1, 1925, alleging that he will be unable to make the payments as required in subsection (a) of this section, the Secretary of the Interior is authorized in his discretion prior to March 1, 1925, to add such accrued and unpaid charges to the construction charge of the land of such water user or applicant, and to distribute such accumulated charges equally over each of the subsequent years, beginning with the year 1925, or, in the discretion of the Secretary, distribute a total of one-fourth over the first half of the remaining years of the 20-year period beginning with the year 1925, and three-fourths over the second half of such period, so as to complete the payment during the remaining years of the 20-year period of payment of the original construction charge: *Provided*, That upon such adjustment being made, any penalties or interest which may have accrued in connection with such unpaid construction and operation and maintenance charges shall be canceled, and in lieu thereof the amount so due, and the payment of which is extended, shall draw interest at the rate of 5 per centum per annum, paid annually from the time said amount became due to the date of payment: *Provided further*, That the applicant for the extension shall first show to the satisfaction of the Secretary of the Interior de-

tailed statement of his assets and liabilities and probable inability to make payment at the time required in subsection (a) of this section: *And provided further*, That in case the principal and interest herein provided for are not paid in the manner and at the time provided by this section, any penalty provided by law, prior to May 9, 1924, shall thereupon attach from the date of such default: *And provided further*, That similar relief in whole or in part may be extended by the Secretary of the Interior to a legally organized group of water users of a project, upon presentation of a sufficient number of individual showings made in accordance with the foregoing proviso to satisfy the Secretary of the Interior that such extension is necessary.

(May 9, 1924, ch. 150, §§1, 2, 43 Stat. 116.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 385. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 649

Section, act Aug. 9, 1937, ch. 570, §1, 50 Stat. 592, related to contracts for medical attention and service for employees.

Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 647 to 649, also repealed acts Jan. 12, 1927, ch. 27, 44 Stat. 957; Mar. 7, 1928, ch. 137, 45 Stat. 227; Mar. 4, 1929, ch. 705, §1, 45 Stat. 1589; May 14, 1930, ch. 273, §1, 46 Stat. 306; Feb. 14, 1931, ch. 187, §1, 46 Stat. 1142; Apr. 22, 1932, ch. 125, §1, 47 Stat. 114; Feb. 17, 1933, ch. 98, §1, 47 Stat. 842; Mar. 2, 1934, ch. 38, §1, 48 Stat. 380; May 9, 1935, ch. 101, §1, 49 Stat. 197, and June 22, 1936, ch. 691, §1, 49 Stat. 1781, which contained similar provisions.

### § 385a. Payments to school districts for education of dependents of construction personnel; cooperative arrangements; chargeable to project

The Secretary of the Interior, giving due consideration to the temporary nature of the requirements therefor, is authorized to make such provision as he deems to be necessary and in the public interest for the education of dependents of persons employed on the actual construction of projects or features of projects, by the Bureau of Reclamation, in any cases in which he finds that by reason of such construction activity, an undue burden is, or will be cast upon the facilities of the public-school districts serving the areas in which construction is being undertaken, and to pay for the same from any funds available for the construction of said projects: *Provided*, That the Secretary of the Interior shall enter into cooperative arrangements with local school districts wherein such features are situated to contribute toward covering the cost of furnishing the educational services required for such dependents, or for the operation by those school districts of Government facilities, or for the expansion of local school facilities. Such cost incurred hereunder shall be charged to the project concerned and shall be repayable in the same manner and to the same extent as are its other costs of construction.

(June 29, 1948, ch. 733, §1, 62 Stat. 1108.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 385b. Repealed. Pub. L. 86–533, § 1(18), June 29, 1960, 74 Stat. 248

Section, act June 29, 1948, ch. 733, §2, 62 Stat. 1108, related to reports to Congress of all activities undertaken pursuant to provisions of section 385a of this title.

### § 385c. Omitted

CODIFICATION

Section, which related to tuition charge per pupil, was from the Interior Department Appropriation Act, 1949, act June 29, 1948, ch. 754, 62 Stat. 1125, and was not repeated in subsequent appropriation acts.

### § 386. Application of excess-land provisions of reclamation laws to certain lands

The excess-land provisions of the Federal reclamation laws shall not be applicable to lands which on June 16, 1938, had an irrigation water supply from sources other than a Federal reclamation project and which will receive a supplemental supply from the Colorado-Big Thompson project.

(June 16, 1938, ch. 485, 52 Stat. 764.)

### § 387. Removal of sand, gravel, etc.; leases, easements, etc.

The Secretary, in his discretion, may (a) permit the removal, from lands or interests in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project, of sand, gravel, and other minerals and building materials with or without competitive bidding: *Provided*, That removals may be permitted without charge if for use by a public agency in the construction of public roads or streets within any project or in its immediate vicinity; and (b) grant leases and licenses for periods not to exceed fifty years, and easements or rights-of-way with or without limitation as to period of time affecting lands or interest in lands withdrawn or acquired and being administered under the Federal reclamation laws in connection with the construction or operation and maintenance of any project: *Provided*, That, if a water users' organization is under contract obligation for repayment on account of the project or division involved, easements or rights-of-way for periods in excess of twenty-five years shall be granted only upon prior written approval of the governing board of such organization. Such permits or grants shall be made only when, in the judgment of the Secretary, their exercise will not be incompatible

with the purposes for which the lands or interests in lands are being administered, and shall be on such terms and conditions as in his judgment will adequately protect the interests of the United States and the project for which said lands or interests in lands are being administered.

(Aug. 4, 1939, ch. 418, § 10, 53 Stat. 1196; Aug. 18, 1950, ch. 752, 64 Stat. 463.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 485a of this title.

AMENDMENTS

1950—Act Aug. 18, 1950, permitted Secretary to grant permanent easements or rights-of-way provided that no easement or right-of-way in excess of 25 years be granted unless there has been prior written approval by the governing board of that water users' organization as may be under contract obligation for repayment on account of the project involved.

DEFINITIONS

The definitions in section 485a of this title apply to this section.

### § 388. Contracts for materials; liability of United States

When appropriations have been made for the commencement or continuation of construction or operation and maintenance of any project, the Secretary may, in connection with such construction or operation and maintenance, enter into contracts for miscellaneous services, for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.

(Aug. 4, 1939, ch. 418, § 12, 53 Stat. 1197.)

DEFINITIONS

The definitions in section 485a of this title apply to this section.

### § 389. Relocation of highways, railroads, transmission lines, etc., exchange of water, water rights or electric energy

The Secretary is authorized, in connection with the construction or operation and maintenance of any project, (a) to purchase or condemn suitable lands or interests in lands for relocation of highways, roadways, railroads, telegraph, telephone, or electric transmission lines, or any other properties whatsoever, the relocation of which in the judgment of the Secretary is necessitated by said construction or operation and maintenance, and to perform any or all work involved in said relocations on said lands or interests in lands, other lands or interests in lands owned and held by the United States in connection with the construction or operation and maintenance of said project, or properties not owned by the United States; (b) to enter into contracts with the owners of said properties whereby they undertake to acquire any or all property needed for said relocation, or to perform any or all work involved in said relocations; and (c) for the purpose of effecting completely said relocations, to convey or exchange Government properties acquired or improved under (a) above, with or without improvements, or other properties owned and held by the United States in connection with the construction or operation and maintenance of said project, or to grant perpetual easements therein or thereover. Grants or conveyances hereunder shall be by instruments executed by the Secretary without regard to provisions of law governing the patenting of public lands.

The Secretary is further authorized, for the purpose of orderly and economical construction or operation and maintenance of any project, to enter into such contracts for exchange or replacement of water, water rights, or electric energy or for the adjustment of water rights, as in his judgment are necessary and in the interests of the United States and the project.

(Aug. 4, 1939, ch. 418, § 14, 53 Stat. 1197.)

DEFINITIONS

The definitions in section 485a of this title apply to this section.

### § 390. Utilization of dams and reservoir projects for irrigation purposes; additional construction; necessity of authorization; apportionment of cost; limitation

On and after December 22, 1944, whenever the Secretary of the Army determines, upon recommendation by the Secretary of the Interior that any dam and reservoir project operated under the direction of the Secretary of the Army may be utilized for irrigation purposes, the Secretary of the Interior is authorized to construct, operate, and maintain, under the provisions of the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), such additional works in connection therewith as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and findings thereon have been made by the Secretary of the Interior as provided in said Federal reclamation laws and after subsequent specific authorization of the Congress by an authorization Act; and, within the limits of the water users' repayment ability such report may be predicated on the allocation to irrigation of an appropriate portion of the cost of structures and facilities used for irrigation and other purposes. Dams and reservoirs operated under the direction of the Secretary of the Army may be utilized after December 22, 1944, for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirement shall not prejudice lawful uses now existing: *Provided*, That this section shall not apply to any dam or reservoir heretofore constructed in whole or in part by the Army engineers, which provides conservation storage of water for irrigation purposes. In the case of any reservoir project constructed and operated by the Corps of Engineers, the Secretary of the Army is authorized to allocate water which was allocated in the project purpose for municipal and industrial water supply and which is not under contract for delivery, for such periods as he may deem reasonable, for the interim use for irrigation purposes of such

storage until such storage is required for municipal and industrial water supply. No contracts for the interim use of such storage shall be entered into which would significantly affect then-existing uses of such storage.

(Dec. 22, 1944, ch. 665, § 8, 58 Stat. 891; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 99–662, title IX, § 931, Nov. 17, 1986, 100 Stat. 4196.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1986—Pub. L. 99–662 inserted at end ''In the case of any reservoir project constructed and operated by the Corps of Engineers, the Secretary of the Army is authorized to allocate water which was allocated in the project purpose for municipal and industrial water supply and which is not under contract for delivery, for such periods as he may deem reasonable, for the interim use for irrigation purposes of such storage until such storage is required for municipal and industrial water supply. No contracts for the interim use of such storage shall be entered into which would significantly affect then-existing uses of such storage.''

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

TRANSFER OF FUNCTIONS

For transfer of certain real property and functions relating to real property, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 14, eff. July 1, 1948, and 40 [App. B(133)], July 22, 1949.

EXTENSION OF VARIABLE PAYMENT PLAN

Authority of Secretary to extend benefits of variable payment plan to organizations with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts for the storage of water or for the use of stored water under this section, see section 2 of Pub. L. 85–611, Aug. 8, 1958, 72 Stat. 542, set out as a note under section 485h of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

## § 390a. Repealed. Pub. L. 105–362, title IX, § 901(e)(2), Nov. 10, 1998, 112 Stat. 3289

Section, acts July 31, 1953, ch. 298, title I, 67 Stat. 266; Pub. L. 99–294, § 10, May 12, 1986, 100 Stat. 426, related to conditions precedent for construction of dams, reservoir, or water supply.

Provisions similar to those in this section were contained in act July 9, 1952, ch. 597, title I, 66 Stat. 451, prior to repeal by Pub. L. 105–362, title IX, § 901(e)(1), Nov. 10, 1998, 112 Stat. 3289.

## § 390b. Development of water supplies for domestic, municipal, industrial, and other purposes

### (a) Declaration of policy

It is declared to be the policy of the Congress to recognize the primary responsibilities of the States and local interests in developing water supplies for domestic, municipal, industrial, and other purposes and that the Federal Government should participate and cooperate with States and local interests in developing such water supplies in connection with the construction, maintenance, and operation of Federal navigation, flood control, irrigation, or multiple purpose projects.

### (b) Storage in reservoir projects; agreements for payment of cost of construction or modification of projects

In carrying out the policy set forth in this section, it is provided that storage may be included in any reservoir project surveyed, planned, constructed or to be planned, surveyed and/or constructed by the Corps of Engineers or the Bureau of Reclamation to impound water for present or anticipated future demand or need for municipal or industrial water, and the reasonable value thereof may be taken into account in estimating the economic value of the entire project: *Provided*, That the cost of any construction or modification authorized under the provisions of this section shall be determined on the basis that all authorized purposes served by the project shall share equitably in the benefits of multiple purpose construction, as determined by the Secretary of the Army or the Secretary of the Interior, as the case may be: *Provided further*, That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And provided further*, That (1) for Corps of Engineers projects, not to exceed 30 percent of the total estimated cost of any project may be allocated to anticipated future demands, and, (2) for Bureau of Reclamation projects, not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project: *And provided further*, That for Corps of Engineers projects, the Secretary of the Army may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of completion, with repayment contracts providing for recalculation of the interest rate at, five-year intervals, and for Bureau of Reclamation projects, the entire amount of the construction costs, including interest during construction, allocated to water supply shall be repaid within the life of the project but in no event to exceed fifty years after the project is first used for the storage of water for water supply purposes, except that (1)

no payment need be made with respect to storage for future water supply until such supply is first used, and (2) no interest shall be charged on such cost until such supply is first used, but in no case shall the interest-free period exceed ten years. For Corps of Engineers projects, all annual operation, maintenance, and replacement costs for municipal and industrial water supply storage under the provisions of this section shall be reimbursed from State or local interests on an annual basis. For Corps of Engineers projects, any repayment by a State or local interest shall be made with interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or, when a recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs. For Bureau of Reclamation projects, the interest rate used for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue. The provisions of this subsection insofar as they relate to the Bureau of Reclamation and the Secretary of the Interior shall be alternative to and not a substitute for the provisions of the Reclamation Projects Act of 1939 (53 Stat. 1187) [43 U.S.C. 485 et seq.] relating to the same subject.

**(c) Application to other laws**

The provisions of this section shall not be construed to modify the provisions of section 701–1 of title 33 and section 390 of this title, as amended and extended, or the provisions of sections 372 and 383 of this title.

**(d) Approval of Congress of modifications of reservoir projects**

Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include storage as provided in subsection (b) of this section which would seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed, or which would involve major structural or operational changes shall be made only upon the approval of Congress as now provided by law.

(Pub. L. 85–500, title III, § 301, July 3, 1958, 72 Stat. 319; Pub. L. 87–88, § 10, July 20, 1961, 75 Stat. 210; Pub. L. 99–662, title IX, § 932(a), Nov. 17, 1986, 100 Stat. 4196.)

REFERENCES IN TEXT

The Reclamation Projects Act of 1939, referred to in subsec. (b), is act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, which is classified principally to subchapter X (§ 485 et seq.) of this chapter. For complete classification of this Act to the Code, see section 485k of this title and Tables.

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–662 inserted in third proviso ''(1) for Corps of Engineers projects, not to exceed 30 percent of the total estimated cost of any project may be allocated to anticipated future demands, and, (2) for Bureau of Reclamation projects,'', inserted in fourth proviso ''for Corps of Engineers projects, the Secretary of the Army may permit the full non-Federal contribution to be made, without interest, during construction of the project, or, with interest, over a period of not more than thirty years from the date of completion, with repayment contracts providing for recalculation of the interest rate at, five-year intervals, and for Bureau of Reclamation projects,'', inserted after first sentence ''For Corps of Engineers projects, all annual operation, maintenance, and replacement costs for municipal and industrial water supply storage under the provisions of this section shall be reimbursed from State or local interests on an annual basis. For Corps of Engineers projects, any repayment by a State or local interest shall be made with interest at a rate to be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which costs for the construction of the project are first incurred (or, when a recalculation is made), plus a premium of one-eighth of one percentage point for transaction costs.'', and substituted ''For Bureau of Reclamation projects, the interest rate used'' for ''The interest rate used''.

1961—Subsec. (b). Pub. L. 87–88 substituted provisions permitting not more than 30 per centum of the total estimated cost of any project to be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project for provisions which permitted not more than 30 per centum of the total estimated cost of any project to be allocated to anticipated future demands where States or local interests give reasonable assurance that they will contract for the use of storage for anticipated future demands within a period of time which will permit paying out the costs allocated to water supply within the life of the project.

SHORT TITLE OF 1961 AMENDMENT

Section 11 of Pub. L. 87–88 provided that: ''This Act [amending this section, and sections 1151, 1153 to 1155, 1157 to 1160, 1171 to 1173 of Title 33, Navigation and Navigable Waters, and enacting provisions set out as notes under sections 1151, 1157, and 1159 of Title 33] may be cited as the 'Federal Water Pollution Control Act Amendments of 1961'.''

SHORT TITLE

Section 302 of Pub. L. 85–500 provided that: ''Title III of this Act [enacting this section] may be cited as the 'Water Supply Act of 1958'.''

AMENDMENT OF CONTRACTS EXISTING PRIOR TO NOVEMBER 17, 1986

Pub. L. 99–662, title IX, § 932(b), Nov. 17, 1986, 100 Stat. 4197, provided that: ''Nothing in this section [amending this section] shall be deemed to amend or require amendment of any valid contract entered into pursuant to the Water Supply Act of 1958 [this section], or Federal reclamation law and approved by the Secretary of the Army or the Secretary of the Interior prior to the date of enactment of this Act [Nov. 17, 1986].''

## § 390c. Water reservoirs; interests of States and local agencies in storage space

Cognizant that many States and local interests have in the past contributed to the Govern-

ment, or have contracted to pay to the Government over a specified period of years, money equivalent to the cost of providing for them water storage space at Government-owned dams and reservoirs, constructed by the Corps of Engineers of the United States Army, and that such practices will continue, and, that no law defines the duration of their interest in such storage space, and realizing that such States and local interests assume the obligation of paying substantially their portion of the cost of providing such facilities, their right to use may be continued during the existence of the facility as hereinafter provided.

(Pub. L. 88–140, § 1, Oct. 16, 1963, 77 Stat. 249.)

### § 390d. Dams and reservoirs wherein costs thereof, or rights thereto, have been acquired by local interests

Sections 390c to 390f of this title are applicable to all dams and reservoirs heretofore or hereafter constructed by the United States Government (acting through the Corps of Engineers of the United States Army) wherein either a part of the construction cost thereof shall have been contributed or may be contributed by States or local interests (hereinafter called ''local interests'') or local interests have acquired or may acquire rights to utilize certain storage space thereof by making payments during the period of such use as specified in the agreement with the Government and wherein the amount of money paid, exclusive of interest, is equivalent to the cost of providing that part of such dam and reservoir which is allocated to such use, whether such share of cost shall have been determined by the ''incremental cost'' method or by the ''separable costs-remaining benefits'' method or by any other method. Included among the dams and reservoirs affected by sections 390c to 390f of this title are those constructed by the Corps of Engineers of the Department of the Army, but nothing in sections 390c to 390f of this title shall be construed to affect or modify section 390 of this title.

(Pub. L. 88–140, § 2, Oct. 16, 1963, 77 Stat. 249.)

### § 390e. Rights, acquisition and availability of; obligation for operation and maintenance; costs for reconstruction, rehabilitation, or replacement; use during Government operation or by contract

The right thus acquired by any such local interest is declared to be available to the local interest so long as the space designated for that purpose may be physically available, taking into account such equitable reallocation of reservoir storage capacities among the purposes served by the project as may be necessary due to sedimentation, and not limited to the term of years which may be prescribed in any lease agreement or other agreement with the Government, but the enjoyment of such right will remain subject to performance of its obligations prescribed in such lease agreement or agreement executed in reference thereto. Such obligations will include continued payment of annual operation and maintenance costs allocated to water supply. In addition, local interests shall bear the costs allocated to the water supply of any necessary reconstruction, rehabilitation, or replacement of project features which may be required to continue satisfactory operation of the project. Any affected local interest may utilize such facility so long as it is operated by the Government. In the event that the Government concludes that it can no longer usefully and economically maintain and operate such facility, the responsible department or agency of the Government is authorized to negotiate a contract with the affected local interest under which the local interest may continue to operate such part of the facility as is necessary for utilization of the storage space allocated to it, under terms which will protect the public interest and provided that the Government is effectively absolved from all liability in connection with such operation.

(Pub. L. 88–140, § 3, Oct. 16, 1963, 77 Stat. 249.)

### § 390f. Revision of leases or agreements to evidence conversion of rights to use of storage rights

Upon application of any affected local interest its existing lease or agreement with the Government will be revised to evidence the conversion of its rights to the use of the storage as prescribed in sections 390c to 390f of this title.

(Pub. L. 88–140, § 4, Oct. 16, 1963, 77 Stat. 250.)

### § 390g. Groundwater recharge of aquifers; demonstration program

The Secretary of the Interior (hereinafter referred to as the ''Secretary''), acting through the Bureau of Reclamation (hereinafter referred to as the ''Bureau''), shall, in two phases, conduct an investigation of and establish demonstration projects for groundwater recharge of aquifers in the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming (such States to be hereinafter referred to as the ''High Plains States'') and in the other States referred to in section 391 of this title (hereinafter referred to as ''other Reclamation Act States''), as provided by sections 390g to 390g–8 of this title: *Provided*, That funds made available pursuant to sections 390g to 390g–8 of this title shall not be used for the study or construction of groundwater recharge demonstration projects in the High Plains States and other Reclamation Act States which would utilize water originating in the drainage basin of the Great Lakes. The Bureau shall consult with the United States Geological Survey and other appropriate agencies and departments of the United States and of the High Plains States and other Reclamation Act States in order to carry out sections 390g to 390g–8 of this title.

(Pub. L. 98–434, § 2, Sept. 28, 1984, 98 Stat. 1675.)

SHORT TITLE

Section 1 of Pub. L. 98–434 provided: ''That this Act [enacting sections 390g to 390g–8 of this title] may be cited as the 'High Plains States Groundwater Demonstration Program Act of 1983'.''

### § 390g–1. Phase I of groundwater recharge demonstration program

#### (a) Development of detailed plan of demonstration projects; requisite features of plan

During phase I, the Bureau, in consultation with the High Plains States and other Reclamation Act States and other appropriate departments and agencies of the United States, including the United States Geological Survey, shall develop a detailed plan of demonstration projects the purpose of which is to determine whether various recharge technologies may be applied to diverse geologic and hydrologic conditions represented in the High Plains States and other Reclamation Act States. In the preparation and development of such plan, the Bureau shall make maximum use of data, planning studies and other technical resources and assistance available from State and local entities: *Provided*, That contributions of such technical resources and assistance may be counted as part of the in-kind services or other State contribution, but shall otherwise be provided without compensation to the State or local entity. This plan shall contain the selection of not less than a total of twelve demonstration project sites in High Plains States and not less than a total of nine demonstration project sites in other Reclamation Act States. Demonstration project sites shall be confined to areas having a declining water table, an available surface water supply, and a high probability of physical, chemical, and economic feasibility for recharge of the groundwater reservoir. The plan shall provide for demonstration of the application of recharge technology and the selection of water sources, determination of necessary physical works and the operation of water replacement systems, formulation of a monitoring program, identification of any economic, legal, intergovernmental, and environmental issues and projection of planning problems associated with such systems, and recommendation of legislative and administrative actions as may be necessary to carry out phase II.

#### (b) Recommendation of demonstration projects

During phase I the Bureau is authorized and directed to recommend demonstration projects to be designed, constructed, and operated during phase II.

#### (c) Preliminary selection of projects

Within six months, after the enactment of an appropriation Act to carry out phase I, the Secretary shall make a preliminary selection of projects to receive further planning and development and shall initiate such further planning and development for those selected projects.

(Pub. L. 98–434, § 3, Sept. 28, 1984, 98 Stat. 1675; Pub. L. 104–66, title I, § 1081(c), Dec. 21, 1995, 109 Stat. 721.)

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–66 struck out subsec. (d) which read as follows: ''Within twenty-four months after the date of enactment of an appropriation Act to carry out phase I, the Secretary shall transmit a report to Congress containing the recommendations made pursuant to subsection (b) of this section and a detailed statement of his findings and conclusions.''

### § 390g–2. Phase II of groundwater recharge demonstration program

#### (a) Design, construction, and operation of projects

During phase II, and subject to State water laws and interstate water compacts, the Bureau is authorized and directed to design, construct, and operate demonstration projects in the High Plains States and other Reclamation Act States to recharge groundwater systems as recommended in the report referred to in subsection (c) of this section.

#### (b) Alternative means of cost allocation; economic feasibility of projects

During phase II the Secretary, acting through the Bureau, shall contract with the various High Plains States and other Reclamation Act States to conduct a study to identify and evaluate alternative means by which the costs of groundwater recharge projects could be allocated among the beneficiaries of the projects within the respective States and identify and evaluate the economic feasibility of and the legal authority for utilizing groundwater recharge in water resource development projects.

#### (c) Reports to Congress

(1) Within twelve months after the initiation of phase II, and at annual intervals thereafter, the Secretary shall submit interim reports to Congress. Each report shall contain a detailed statement of his findings and progress respecting the design, construction, and operation of the demonstration projects referred to in subsection (a) of this section and the study referred to in subsection (b) of this section.

(2) Within five years after the initiation of phase II, the Secretary shall submit a summary report to Congress. The summary report shall contain—

(A) a detailed evaluation of the demonstration projects referred to in subsection (a) of this section;

(B) the results of the studies referred to in subsection (b) of this section;

(C) specific recommendations regarding the location, scope, and feasibility of operational groundwater recharge projects to be constructed and maintained by the Bureau; and

(D) an evaluation of the feasibility of integrating these groundwater recharge projects into existing reclamation projects.

(3) In addition to recommendations made under section 390g–1 of this title, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a) of this section.

(4) Each project under this section shall terminate five years after the date on which construction on the project is completed.

(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.

(Pub. L. 98–434, § 4, Sept. 28, 1984, 98 Stat. 1676; Pub. L. 102–575, title XXVI, § 2601(1), (2), Oct. 30, 1992, 106 Stat. 4689.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–575 substituted ''summary report'' for ''final report'' in two places in introductory provisions of par. (2) and added pars. (3) to (5).

### § 390g–3. Evaluation of water quality impacts

The Secretary, acting through the Bureau, and the Administrator of the Environmental Protection Agency (hereinafter referred to as the ''Administrator'') shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to sections 390g to 390g–8 of this title. The Administrator shall consult with the United States Geological Survey and shall make maximum use of data, studies, and other technical resources and assistance available from State and local entities in conducting the evaluation. The evaluation of water quality impacts shall be completed so as to be included in the Secretary's summary report to the Congress referred to in section 390g–2(c)(2) of this title.

(Pub. L. 98–434, § 5, Sept. 28, 1984, 98 Stat. 1676; Pub. L. 102–575, title XXVI, § 2601(1), Oct. 30, 1992, 106 Stat. 4689.)

AMENDMENTS

1992—Pub. L. 102–575 substituted ''summary report'' for ''final report''.

### § 390g–4. Authorization of appropriations to carry out phase I

There is authorized to be appropriated $500,000 for fiscal years beginning after September 30, 1983, to carry out phase I. Amounts shall be made available pursuant to the authorization contained in this section in a single sum for all demonstration project sites, and it shall be within the discretion of the Secretary to apportion such sum among such sites.

(Pub. L. 98–434, § 6, Sept. 28, 1984, 98 Stat. 1677.)

### § 390g–5. Authorization of appropriations to carry out phase II

There is authorized to be appropriated for fiscal years beginning after September 30, 1983, $31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein to carry out phase II. Amounts shall be made available pursuant to the authorization contained in this section in sums for individual projects based on findings of feasibility by the Secretary.

(Pub. L. 98–434, § 7, Sept. 28, 1984, 98 Stat. 1677; Pub. L. 102–575, title XXVI, § 2601(3), Oct. 30, 1992, 106 Stat. 4689.)

AMENDMENTS

1992—Pub. L. 102–575 substituted ''$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein'' for ''$20,000,000 (October 1983 price levels)''.

### § 390g–6. Matching basis for funding phase II from non-Federal sources

The funds authorized to be appropriated pursuant to section 390g–5 of this title shall match on a four-to-one basis funds made available by the States, their political subdivisions, or other non-Federal entities to meet the cost of phase II: *Provided*, That, inkind services or other contributions by the States, their political subdivisions, or other non-Federal entities shall be considered in the determination of the matching non-Federal share. The Secretary is authorized to enter into memoranda of agreement with any appropriate agencies or departments of the High Plains States and other Reclamation Act States to share the costs of phase II.

(Pub. L. 98–434, § 8, Sept. 28, 1984, 98 Stat. 1677.)

### § 390g–7. New spending authority

Any new spending authority described in subsection (c)(2)(A) or (B) of section 651[1] of title 2 which is provided under sections 390g to 390g–8 of this title (or under any amendment made by sections 390g to 390g–8 of this title) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 98–434, § 9, Sept. 28, 1984, 98 Stat. 1677.)

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

### § 390g–8. Interstate transfer of water from Arkansas

No funds authorized to be appropriated by sections 390g to 390g–8 of this title shall be used for any activities associated with:

(1) the interstate transfer of water from the State of Arkansas; or

(2) the study or demonstration of the potential for the interstate transfer of water from the State of Arkansas.

(Pub. L. 98–434, § 10, Sept. 28, 1984, 98 Stat. 1677.)

### § 390h. Program to investigate reclamation and reuse of wastewater and groundwater; general authority

#### (a) Program established

The Secretary of the Interior (hereafter ''Secretary''), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter ''Federal reclamation laws''), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

[1] See References in Text note below.

**(b) States included**

Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) [43 U.S.C. 391] as amended, and the State of Hawaii.

**(c) Agreements and regulations**

The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of sections 390h to 390h–39 of this title.

**(d) San Luis Unit of Central Valley Project, California**

The Secretary shall not investigate, promote or implement, pursuant to sections 390h to 390h–39 of this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(Pub. L. 102–575, title XVI, § 1602, Oct. 30, 1992, 106 Stat. 4664; Pub. L. 106–566, title I, § 104(a), Dec. 23, 2000, 114 Stat. 2819.)

REFERENCES IN TEXT

The Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388), referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

Hereafter, referred to in subsec. (a), means hereafter in title XVI of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4663, which enacted sections 390h to 390h–39 of this title.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–566 inserted ‘‘, and the State of Hawaii’’ before period at end.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–70, § 1, Sept. 21, 2005, 119 Stat. 2009, provided that: ‘‘This Act [enacting section 390h–20 of this title and transferring section 390h–17a of this title to section 390h–19 of this title] may be cited as the ‘Hawaii Water Resources Act of 2005’.’’

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108–316, § 1(a), Oct. 5, 2004, 118 Stat. 1202, provided that: ‘‘This section [enacting section 390h–17a of this title] may be cited as the ‘Williamson County Water Recycling Act of 2004’.’’

Pub. L. 108–233, § 1, May 28, 2004, 118 Stat. 654, provided that: ‘‘This Act [enacting section 390h–18 of this title] may be cited as the ‘Irvine Basin Surface and Groundwater Improvement Act of 2004’.’’

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–566, title I, § 101, Dec. 23, 2000, 114 Stat. 2818, provided that: ‘‘This title [amending this section] may be cited as the ‘Hawaii Water Resources Act of 2000’.’’

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–321, § 1(a), Oct. 30, 1998, 112 Stat. 3020, provided that: ‘‘This Act [enacting section 390h–16 of this title, amending section 564w–1 of Title 25, Indians, and enacting and amending provisions listed in a table of National Wildlife Refuges set out under section 668dd of Title 16, Conservation] may be cited as the ‘Oregon Public Lands Transfer and Protection Act of 1998’.’’

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–266, § 1, Oct. 9, 1996, 110 Stat. 3290, provided that: ‘‘This Act [enacting sections 390h–12a to 390h–12p of this title and amending sections 390h–1 to 390h–3, 390h–9, and 390h–13 to 390h–15 of this title] may be cited as the ‘Reclamation Recycling and Water Conservation Act of 1996’.’’

SHORT TITLE

Section 1601 of title XVI of Pub. L. 102–575 provided that: ‘‘This title [enacting sections 390h to 390h–15 of this title] may be referred to as the ‘Reclamation Wastewater and Groundwater Study and Facilities Act’.’’

## § 390h–1. Appraisal investigations

**(a) Purposes; recommendations**

The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

**(b) Matters to be considered**

Appraisal investigations undertaken by the Secretary or the non-Federal project sponsor pursuant to sections 390h to 390h–39 of this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, State and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

**(c) Consultation and cooperation**

The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to sections 390h to 390h–39 of this title.

**(d) Nonreimbursable costs**

Costs of such appraisal investigations shall be nonreimbursable.

(Pub. L. 102–575, title XVI, § 1603, Oct. 30, 1992, 106 Stat. 4664; Pub. L. 104–266, § 3, Oct. 9, 1996, 110 Stat. 3295.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), 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.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–266 inserted ''by the Secretary or the non-Federal project sponsor'' after ''undertaken'' in introductory provisions.

### § 390h–2. Feasibility studies

#### (a) General authority; Federal and non-Federal cost shares

The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 390h–1 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

#### (b) Federal share considered project costs; reimbursement

The Federal share of feasibility studies, including those described in sections 390h–4 and 390h–6 through 390h–8 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

#### (c) Matters to be considered

In addition to the requirements of other Federal laws, feasibility studies conducted by the Secretary or the non-Federal project sponsor under sections 390h to 390h–39 of this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) at least two alternative measures or technologies available for water reclamation, distribution, and reuse for the project under consideration;

(4) public health and environmental quality issues associated with use of reclaimed water;

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies,

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers, or

(C) reduce the demand on existing Federal water supply facilities;

(6) the market or dedicated use for reclaimed water in the project's service area; and

(7) the financial capability of the non-Federal project sponsor to fund its proportionate share of the project's construction costs on an annual basis.

(Pub. L. 102–575, title XVI, § 1604, Oct. 30, 1992, 106 Stat. 4665; Pub. L. 104–266, § 4, Oct. 9, 1996, 110 Stat. 3295.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (b), are defined in section 390h(a) of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–266, § 4(1), substituted ''conducted by the Secretary or the non-Federal project sponsor'' for ''authorized'' in introductory provisions.

Subsec. (c)(3). Pub. L. 104–266, § 4(2), substituted ''at least two alternative measures or technologies available for water reclamation, distribution, and reuse for the project under consideration'' for ''measures and technologies available for water reclamation, distribution, and reuse''.

Subsec. (c)(5)(C). Pub. L. 104–266, § 4(4), added subpar. (C).

Subsec. (c)(6), (7). Pub. L. 104–266, § 4(3), (5), added pars. (6) and (7).

### § 390h–3. Research and demonstration projects

#### (a) Reclamation of wastewater and ground and surface waters

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 per centum of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Public Law 96–480) [15 U.S.C. 3701 et seq.] as amended by the Technology Transfer Act of 1986 (Public Law 99–502).

#### (b) Long Beach Desalination Research and Development Project

(1) The Secretary, in cooperation with the city of Long Beach, the Central Basin Municipal Water District, and the Metropolitan Water District of Southern California may participate in the design, planning, and construction of the Long Beach Desalination Research and Development Project in Los Angeles County, California.

(2) The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

(3) The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).

#### (c) Las Vegas Area Shallow Aquifer Desalination Research and Development Project

(1) The Secretary, in cooperation with the Southern Nevada Water Authority, may participate in the design, planning, and construction of the Las Vegas Area Shallow Aquifer Desalination Research and Development Project in Clark County, Nevada.

(2) The Federal share of the cost of the project described in paragraph (1) shall not exceed 50 percent of the total.

(3) The Secretary shall not provide funds for the operation or maintenance of the project described in paragraph (1).

**(d) Federal contribution**

A Federal contribution in excess of 25 percent for a project under this section may not be made until after the Secretary determines that the project is not feasible without such Federal contribution.

(Pub. L. 102–575, title XVI, § 1605, Oct. 30, 1992, 106 Stat. 4665; Pub. L. 104–266, § 5, Oct. 9, 1996, 110 Stat. 3295.)

REFERENCES IN TEXT

The Stevenson-Wydler Technology Innovation Act of 1980, referred to in subsec. (a), is Pub. L. 96–480, Oct. 21, 1980, 94 Stat. 2311, as amended, which is classified generally to chapter 63 (§ 3701 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of Title 15 and Tables.

The Technology Transfer Act of 1986, referred to in subsec. (a), is Pub. L. 99–502, Oct. 20, 1986, 100 Stat. 1785, known as the Federal Technology Transfer Act of 1986. For complete classification of this Act to the Code, see Short Title of 1986 Amendments note set out under section 3701 of Title 15 and Tables.

AMENDMENTS

1996—Pub. L. 104–266 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

## § 390h–4. Southern California comprehensive water reclamation and reuse study

**(a) General authority**

The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of sections 390h to 390h–39 of this title, the term ''Southern California'' means those portions of the counties of Imperial, Los Angeles, Orange, San Bernadino,[1] Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

**(b) Cooperation with State; Federal share**

The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 per centum of the total.

**(c) Report**

The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than six years after appropriation of funds authorized by sections 390h to 390h–39 of this title.

(Pub. L. 102–575, title XVI, § 1606, Oct. 30, 1992, 106 Stat. 4665; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594.)

[1] So in original. Probably should be ''San Bernardino,''.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

REUSE OF WASTE WATER

Pub. L. 102–580, title II, § 217, Oct. 31, 1992, 106 Stat. 4833, provided that:

''(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out projects described in subsection (c) for the beneficial reuse of waste water. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

''(1) the service would require the use of a new technology unavailable in the private sector; or

''(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

''(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986 [33 U.S.C. 2213(m)].

''(c) PROJECT DESCRIPTIONS.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

''(1) SOUTHERN CALIFORNIA COMPREHENSIVE WATER REUSE SYSTEM.—

''(A) DESCRIPTION.—A regional water reuse system for Southern California to treat, store, and transfer water in order to provide a new increment of water supply for agricultural, municipal, industrial, and environmental needs of Southern California.

''(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the State of California and appropriate local and regional entities.

''(C) SOUTHERN CALIFORNIA DEFINED.—For purposes of this paragraph, the term 'Southern California' means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, Ventura, Santa Barbara, and San Luis Obispo, California, within the south coast, central coast, and Colorado River hydrologic regions as defined by the California Department of Water Resources.

''(2) SAN DIEGO AREA WATER REUSE DEMONSTRATION FACILITIES.—Water reuse facilities (which are not inconsistent with facilities mandated by the United States District Court in San Diego, California) to develop advance technology for economically and environmentally sound alternative water supplies for the San Diego metropolitan area.

''(3) SANTA ROSA WATER REUSE PROJECTS.—

''(A) DESCRIPTION.—Water reuse projects for the city of Santa Rosa, California, to treat waste water and store such treated water for the purposes of providing new water supplies for agriculture, municipal, environmental, and other purposes and reducing the use of potable water supplies for purposes where treated waste water is a viable substitute.

''(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the city of Santa Rosa, California, and other appropriate authorities.

''(4) MONTEREY COUNTY, CALIFORNIA.—

''(A) DESCRIPTION.—Reduction of salt water intrusion into aquifers in the vicinity of Castroville, California, for the purposes of improving the water quality of Monterey Bay and enhancing long-term water supply in the area.

''(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000. Such sums shall remain available until expended.''

### § 390h–5. San Jose area water reclamation and reuse program

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) of this section shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

(Pub. L. 102–575, title XVI, § 1607, Oct. 30, 1992, 106 Stat. 4666.)

DEMONSTRATION OF WASTE WATER TECHNOLOGY, SANTA CLARA VALLEY WATER DISTRICT AND SAN JOSE, CALIFORNIA

Pub. L. 102–580, title II, § 218, Oct. 31, 1992, 106 Stat. 4834, provided that:

''(a) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to provide design and construction assistance to the Santa Clara Valley Water District in San Jose, California, and to the city of San Jose, California, for demonstrating and field testing public use innovative processes which advance the technology of waste water reuse and treatment and which promote the use of treated waste water for critical water supply purposes and for the protection of fish and wildlife in the San Francisco Bay. All design, construction, and comprehensive health effects studies shall be carried out by non-Federal interests.

''(b) PURPOSES OF ASSISTANCE.—Assistance may be provided under this section—

''(1) for the design and construction of an innovative nonpotable waste water reuse treatment facility with distribution systems;

''(2) for the design and construction of an innovative potable waste water reuse pilot plant;

''(3) for implementation of a comprehensive health effects study of the performance of the potable waste water reuse pilot plant; and

''(4) after the pilot plant is constructed and is operational, for the design and construction of a potable waste water reuse project, along with integration of the additional potable processes into the existing nonpotable facilities, and the extension of the distribution systems to groundwater recharge areas, if the Secretary, in cooperation with the Administrator of the Environmental Protection Agency, determines that the established public health requirements and water quality goals and objectives are being met by the pilot plant, the public health and safety is not at risk as a result of the operation of the pilot plant, and the pilot plant is operating reliably.

''(c) COST SHARING.—Total project costs under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000. Such sums shall remain available until expended.''

### § 390h–6. Phoenix metropolitan water reclamation study and program

#### (a) General authority

The Secretary, in cooperation with the city of Phoenix, Arizona, shall participate in the planning, design, and construction of the Phoenix Metropolitan Water Reclamation and Reuse Project to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural and environmental purposes, groundwater recharge and indirect potable reuse in the Phoenix metropolitan area.

#### (b) Federal share

The Federal share of the costs associated with the project described in subsection (a) of this section shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(Pub. L. 102–575, title XVI, § 1608, Oct. 30, 1992, 106 Stat. 4666; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 106–53, title V, § 596, Aug. 17, 1999, 113 Stat. 384.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–53, § 596(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the city of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.''

Subsec. (b). Pub. L. 106–53, § 596(2), struck out first sentence which read as follows: ''The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.''

Subsec. (c). Pub. L. 106–53, § 596(3), struck out subsec. (c) which read as follows: ''The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than two years after appropriation of funds authorized by sections 390h to 390h–15 of this title.''

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

### § 390h–7. Tucson area water reclamation study

#### (a) General authority

The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term ''Southern Arizona'' means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management Hydrologic Area as defined by the Arizona Department of Water Resources.

#### (b) Federal share

The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

**(c) Report**

The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than four years after appropriation of funds authorized by sections 390h to 390h–39 of this title.

(Pub. L. 102–575, title XVI, § 1609, Oct. 30, 1992, 106 Stat. 4666; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

### § 390h–8. Lake Cheraw water reclamation and reuse study

**(a) General authority**

The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on groundwater resources or the waters of the Arkansas River.

**(b) Federal share**

The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

**(c) Report**

The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than two years after appropriation of funds authorized by sections 390h to 390h–39 of this title.

(Pub. L. 102–575, title XVI, § 1610, Oct. 30, 1992, 106 Stat. 4667; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

### § 390h–9. San Francisco area water reclamation study

**(a) General authority**

The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

**(b) Federal share**

The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

**(c) Report**

The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives not later than five years after appropriation of funds authorized by sections 390h to 390h–39 of this title.

(Pub. L. 102–575, title XVI, § 1611, Oct. 30, 1992, 106 Stat. 4667; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 104–266, § 6, Oct. 9, 1996, 110 Stat. 3296.)

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–266 substituted ''five'' for ''four''.

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

### § 390h–10. San Diego area water reclamation program

(a) The Secretary, in cooperation with the city of San Diego, California[1] or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) of this section shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

(Pub. L. 102–575, title XVI, § 1612, Oct. 30, 1992, 106 Stat. 4667.)

### § 390h–11. Los Angeles area water reclamation and reuse project

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) of this section shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

(Pub. L. 102–575, title XVI, § 1613, Oct. 30, 1992, 106 Stat. 4667.)

### § 390h–12. San Gabriel basin demonstration project

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the

[1] So in original. Probably should be followed by a comma.

San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility; *Provided*, That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) of this section shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

(Pub. L. 102–575, title XVI, § 1614, Oct. 30, 1992, 106 Stat. 4668.)

### § 390h–12a. North San Diego County Area Water Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the North San Diego County Area Water Recycling Project, consisting of projects to reclaim and reuse water within service areas of the San Elijo Joint Powers Authority, the Leucadia County Water District, the City of Carlsbad, and the Olivenhain Municipal Water District, California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1615, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3290.)

PRIOR PROVISIONS

A prior section 1615 of Pub. L. 102–575 was renumbered section 1631 and is classified to section 390h–13 of this title.

### § 390h–12b. Calleguas Municipal Water District Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Calleguas Municipal Water District Recycling Project to reclaim and reuse water in the service area of the Calleguas Municipal Water District in Ventura County, California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1616, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3290.)

PRIOR PROVISIONS

A prior section 1616 of Pub. L. 102–575 was renumbered section 1632 and is classified to section 390h–14 of this title.

### § 390h–12c. Central Valley Water Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Central Valley Water Recycling Project to reclaim and reuse water in the service areas of the Central Valley Reclamation Facility and the Salt Lake County Water Conservancy District in Utah.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1617, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3291.)

PRIOR PROVISIONS

A prior section 1617 of Pub. L. 102–575 was renumbered section 1633 and is classified to section 390h–15 of this title.

### § 390h–12d. St. George Area Water Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the St. George Area Water Recycling Project to reclaim and reuse water in the service area of the Washington County Water Conservancy District in Utah.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1618, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3291.)

### § 390h–12e. Watsonville Area Water Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the City of Watsonville, California, is authorized to participate in the design, planning, and construction of the Watsonville Area Water Recycling Project to reclaim and reuse water in the Pajaro Valley in Santa Cruz County, California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1619, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3291.)

### § 390h–12f. Southern Nevada Water Recycling Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Southern Nevada Water Recycling Project to reclaim and reuse water in the service area of the Southern Nevada Water Authority in Clark County, Nevada.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1620, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3291.)

### § 390h–12g. Albuquerque Metropolitan Area Water Reclamation and Reuse Project

**(a) Authorization**

The Secretary, in cooperation with the city of Albuquerque, New Mexico, is authorized to participate in the planning, design, and construction of the Albuquerque Metropolitan Area Water Reclamation and Reuse Project to reclaim and reuse industrial and municipal wastewater and reclaim and use naturally impaired ground water and nonpotable surface water in the Albuquerque metropolitan area.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1621, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3292; amended Pub. L. 105–62, title V, § 506, Oct. 13, 1997, 111 Stat. 1339.)

CODIFICATION

Section 506 of Pub. L. 105–62, which directed the amendment of ''section 1621 of title XVI of the Reclamation Wastewater and Groundwater Act, Public Law 104–266'', was executed by making the amendment to this section, which is section 1621 of title XVI of the Reclamation Wastewater and Groundwater Study and Facilities Act, Pub. L. 102–575, as added by Pub. L. 104–266, to reflect the probable intent of Congress.

AMENDMENTS

1997—Pub. L. 105–62, § 506(1), which directed the substitution of ''project'' for ''study'' in section catchline, was executed by substituting ''Project'' for ''Study'' to reflect the probable intent of Congress.

Subsec. (a). Pub. L. 105–62, § 506(2), (3), inserted ''planning, design, and construction of the'' after ''to participate in the'' and ''and nonpotable surface water'' after ''impaired ground water''.

Pub. L. 105–62, § 506(1), which directed the substitution of ''project'' for ''study'', was executed by substituting ''Project'' for ''Study'' to reflect the probable intent of Congress.

### § 390h–12h. El Paso Water Reclamation and Reuse Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the El Paso Water Reclamation and Reuse Project to reclaim and reuse wastewater in the service area of the El Paso Water Utilities Public Service Board, El Paso, Texas.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1622, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3292.)

### § 390h–12i. Reclaimed water in Pasadena

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the City of Pasadena, California, reclaimed water project to obtain, store, and use reclaimed water in Pasadena and its service area, as well as neighboring communities.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1623, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3292.)

### § 390h–12j. Orange County Regional Water Reclamation Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Orange County Regional Water Reclamation Project, to reclaim and reuse water within the service area of the Orange County Water District in California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1624, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3292; amended Pub. L. 111–11, title IX, § 9111(c), Mar. 30, 2009, 123 Stat. 1318.)

AMENDMENTS

2009—Pub. L. 111–11, § 9111(c)(1), struck out ''Phase 1 of the'' before ''Orange County'' in section catchline.

Subsec. (a). Pub. L. 111–11, § 9111(c)(2), struck out ''phase 1 of'' before ''the Orange County''.

### § 390h–12k. City of West Jordan Water Reuse Project

**(a) Authorization**

The Secretary, in cooperation with the City of West Jordan, Utah, is authorized to participate in the design, planning, and construction of the City of West Jordan Water Reuse Project to recycle and reuse water in its service area from the South Valley Water Reclamation Facility Discharge Waters in Utah.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1625, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3293.)

### § 390h–12*l*. Hi-Desert Water District in Yucca Valley, California wastewater collection and reuse facility

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the Hi-Desert Water District in Yucca Valley, California wastewater collection and reuse facility.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1626, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3293.)

### § 390h–12m. Mission Basin Brackish Groundwater Desalting Demonstration Project

**(a) Authorization**

The Secretary, in cooperation with the City of Oceanside, is authorized to participate in the design, planning, and construction of a 3,000,000 gallon per day expansion of the Mission Basin Brackish Groundwater Desalting Demonstration Project in Oceanside, California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1627, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3293.)

### § 390h–12n. Treatment of effluent from sanitation districts of Los Angeles County through city of Long Beach

**(a) Authorization**

The Secretary, in cooperation with the Water Replenishment District of Southern California, the Orange County Water District in the State of California, and other appropriate authorities, is authorized to participate in the design, planning, and construction of water reclamation and reuse projects to treat approximately 10,000 acre-feet per year of effluent from the sanitation districts of Los Angeles County through the city of Long Beach.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1628, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3293.)

### § 390h–12*o*. San Joaquin Area Water Recycling and Reuse Project

**(a) Authorization**

The Secretary, in cooperation with the appropriate State and local authorities, is authorized to participate in the design, planning, and construction of the San Joaquin Area Water Recycling and Reuse Project, in cooperation with the City of Tracy, and consisting of participating projects which will reclaim and reuse water within the County of San Joaquin in California.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1629, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3294.)

### § 390h–12p. Tooele Wastewater Treatment and Reuse Project

**(a) Authorization**

The Secretary, in cooperation with Tooele City, Utah, is authorized to participate in the design, planning, and construction of the Tooele Wastewater Treatment and Reuse Project.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1630, as added Pub. L. 104–266, § 2(a)(2), Oct. 9, 1996, 110 Stat. 3294.)

### § 390h–13. Authorization of appropriations

**(a) In general**

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 390h through 390h–12p of this title.

**(b) Prerequisite cost-sharing agreement**

(1) Funds may not be appropriated for the construction of any project authorized by sections 390h to 390h–39 of this title until after—

(A) an appraisal investigation and a feasibility study that complies with the provisions of sections 390h–1(b) or 390h–2(c) of this title, as the case may be, have been completed by the Secretary or the non-Federal project sponsor;

(B) the Secretary has determined that the non-Federal project sponsor is financially capable of funding the non-Federal share of the project's costs; and

(C) the Secretary has approved a cost-sharing agreement with the non-Federal project sponsor which commits the non-Federal project sponsor to funding its proportionate share of the project's construction costs on an annual basis.

(2) The requirements of paragraph (1) shall not apply to those projects authorized by sections 390h to 390h–39 of this title for which funds were appropriated prior to January 1, 1996.

**(c) Congressional notification**

The Secretary shall notify the Committees on Resources and Appropriations of the House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the Senate within 30 days after the signing of a cost-sharing agreement pursuant to subsection (b) of this section that such an agreement has been signed and that the Secretary has determined that the non-Federal project sponsor is financially capable of funding the project's non-Federal share of the project's costs.

**(d) Ceiling on Federal share**

(1) Notwithstanding any other provision of sections 390h to 390h–39 of this title and except as provided by paragraph (2), the Federal share of the costs of each of the individual projects authorized by sections 390h to 390h–39 of this title shall not exceed $20,000,000 (October 1996 prices).

(2)(A) Subject to subparagraph (B), in the case of any project authorized by sections 390h to 390h–39 of this title for which construction funds were appropriated before January 1, 1996, the Federal share of the cost of such project may not exceed the amount specified as the "total Federal obligation" for that project in the budget justification made by the Bureau of Reclamation for fiscal year 1997, as contained in part 3 of the report of the hearing held on March 27, 1996, before the Subcommittee on Energy and Water Development of the Committee on Appropriations of the House of Representatives.

(B) In the case of the San Gabriel Basin demonstration project authorized by section 390h–12 of this title, the Federal share of the cost of such project may not exceed the sum determined by adding—

(i) the amount that applies to that project under subparagraph (A); and

(ii) $6,500,000.

(Pub. L. 102–575, title XVI, § 1631, formerly § 1615, Oct. 30, 1992, 106 Stat. 4668; renumbered § 1631 and amended Pub. L. 104–266, §§ 2(a)(1), (b)(1), 7, Oct. 9, 1996, 110 Stat. 3290, 3294, 3296; Pub. L. 108–418, § 1, Nov. 30, 2004, 118 Stat. 2340.)

REFERENCES IN TEXT

Sections 390h through 390h–12p of this title, referred to in subsec. (a), was in the original "sections 1601 through 1630 of this title" meaning sections 1601 through 1630 of title XVI of Pub. L. 102–575, which are classified to sections 390h to 390h–12p of this title and provisions set out as a note under section 390h of this title.

AMENDMENTS

2004—Subsec. (d)(2). Pub. L. 108–418 designated existing provisions as subpar. (A), substituted "Subject to subparagraph (B), in the case" for "In the case", and added subpar. (B).

1996—Pub. L. 104–266 designated existing provisions as subsec. (a), substituted "300h–12p" for "300h–12", and added subsecs. (b) to (d).

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 390h–14. Groundwater study

**(a) Investigation, analysis, and report**

In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675) [43 U.S.C. 390g et seq.], the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater,[1] and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a groundwater management and technical assistance program in the Department of

[1] So in original. The comma probably should be a semicolon.

the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

**(b) Consultation with Governors**

In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

**(c) Report**

The report shall be submitted to the Committees on Appropriations and Natural Resources of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 390h–15 of this title.

(Pub. L. 102–575, title XVI, § 1632, formerly § 1616, Oct. 30, 1992, 106 Stat. 4668; Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594; renumbered § 1632 and amended Pub. L. 104–266, § 2(a)(1), (b)(2), Oct. 9, 1996, 110 Stat. 3290, 3294.)

REFERENCES IN TEXT

The High Plains Groundwater Demonstration Program Act of 1983, referred to in subsec. (a), is Pub. L. 98–434, Sept. 28, 1984, 98 Stat. 1675, which is classified generally to sections 390g to 390g–8 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 390g of this title and Tables.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–266, § 2(b)(2), made technical amendment to reference in original act which appears in text as reference to section 390h–15 of this title.

1994—Subsec. (c). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

CHANGE OF NAME

Geological Survey redesignated United States Geological Survey by provision of title I of Pub. L. 102–154, Nov. 13, 1991, 105 Stat. 1000, set out as a note under section 31 of this title.

### § 390h–15. Authorization of appropriations

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 390h–14 of this title.

(Pub. L. 102–575, title XVI, § 1633, formerly § 1617, Oct. 30, 1992, 106 Stat. 4669; renumbered § 1633 and amended Pub. L. 104–266, § 2(a)(1), (b)(3), Oct. 9, 1996, 110 Stat. 3290, 3294.)

AMENDMENTS

1996—Pub. L. 104–266, § 2(b)(3), made technical amendment to reference in original act which appears in text as reference to section 390h–14 of this title.

### § 390h–16. Willow Lake Natural Treatment System Project

**(a) Authorization**

The Secretary, in cooperation with the city of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the city of Salem.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

(Pub. L. 102–575, title XVI, § 1634, as added Pub. L. 105–321, § 6(a), Oct. 30, 1998, 112 Stat. 3025.)

### § 390h–17. Lakehaven, Washington, Water Reclamation and Reuse Project

**(a) Authorization**

The Secretary, in cooperation with the Lakehaven Utility District, Washington, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the Lakehaven Utility District.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

(Pub. L. 102–575, title XVI, § 1635, as added Pub. L. 107–344, § 1, Dec. 17, 2002, 116 Stat. 2893.)

### § 390h–17a. Transferred

CODIFICATION

Section, Pub. L. 102–575, title XVI, § 1636, as added Pub. L. 108–316, § 1(b), Oct. 5, 2004, 118 Stat. 1202, which related to the Williamson County, Texas, water recycling and reuse project, was renumbered section 1637 of Pub. L. 102–575 by Pub. L. 109–70, § 2(a)(1), Sept. 21, 2005, 119 Stat. 2009, and transferred to section 390h–19 of this title.

### § 390h–18. Irvine basin groundwater and surface water improvement projects

**(a) Authorization**

The Secretary, in cooperation with the Irvine Ranch Water District, California, is authorized to participate in the design, planning, and construction of projects to naturally treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the San Diego Creek Watershed.

**(b) Cost share**

The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation or maintenance of a project authorized by this section.

(Pub. L. 102–575, title XVI, § 1636, as added Pub. L. 108–233, § 2(a), May 28, 2004, 118 Stat. 654.)

PRIOR PROVISIONS

Another section 1636 of Pub. L. 102–575 was renumbered 1637 and is classified to section 390h–19 of this title.

### § 390h–19. Williamson County, Texas, water recycling and reuse project

**(a) Authorization**

The Secretary, in cooperation with the Lower Colorado River Authority, Texas, is authorized to participate in the design, planning, and construction of permanent facilities to reclaim and reuse water in Williamson County, Texas.

**(b) Cost share**

The Federal share of the costs of the project described in subsection (a) of this section shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project described in subsection (a) of this section.

(Pub. L. 102–575, title XVI, § 1637, formerly § 1636, as added Pub. L. 108–316, § 1(b), Oct. 5, 2004, 118 Stat. 1202; renumbered § 1637, Pub. L. 109–70, § 2(a)(1), Sept. 21, 2005, 119 Stat. 2009.)

CODIFICATION

Section was formerly classified to section 390h–17a of this title prior to renumbering by Pub. L. 109–70.

### § 390h–20. Hawaii reclamation projects

**(a) Authorization**

The Secretary may—

(1) in cooperation with the Board of Water Supply, City and County of Honolulu, Hawaii, participate in the design, planning, and construction of a project in Kalaeloa, Hawaii, to desalinate and distribute seawater for direct potable use within the service area of the Board;

(2) in cooperation with the County of Hawaii Department of Environmental Management, Hawaii, participate in the design, planning, and construction of facilities in Kealakehe, Hawaii, for the treatment and distribution of recycled water and for environmental purposes within the County; and

(3) in cooperation with the County of Maui Wastewater Reclamation Division, Hawaii, participate in the design, planning, and construction of, and acquire land for, facilities in Lahaina, Hawaii, for the distribution of recycled water from the Lahaina Wastewater Reclamation Facility for non-potable uses within the County.

**(b) Cost share**

The Federal share of the cost of a project described in subsection (a) of this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for the operation and maintenance of a project described in subsection (a) of this section.

**(d) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 102–575, title XVI, § 1638, as added Pub. L. 109–70, § 2(a)(2), Sept. 21, 2005, 119 Stat. 2009.)

### § 390h–21. Inland Empire regional water recycling project

**(a) In general**

The Secretary, in cooperation with the Inland Empire Utilities Agency, may participate in the design, planning, and construction of the Inland Empire regional water recycling project described in the report submitted under section 390h–4(c) of this title.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section, $20,000,000.

(Pub. L. 102–575, title XVI, § 16——, as added Pub. L. 110–161, div. C, title II, § 210, Dec. 26, 2007, 121 Stat. 1954.)

CODIFICATION

Section is based on section ''16——'' of Pub. L. 102–575. Two other sections ''16——'' of Pub. L. 102–575 have been enacted and are classified to sections 390h–22 and 390h–23 of this title.

### § 390h–22. Cucamonga Valley water recycling project

**(a) In general**

The Secretary, in cooperation with the Cucamonga Valley Water District, may participate in the design, planning, and construction of the Cucamonga Valley Water District satellite recycling plants in Rancho Cucamonga, California, to reclaim and recycle approximately 2 million gallons per day of domestic wastewater.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the capital cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section, $10,000,000.

**(e) Sunset of authority**

The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after December 26, 2007.

(Pub. L. 102–575, title XVI, § 16——, as added Pub. L. 110–161, div. C, title II, § 210, Dec. 26, 2007, 121 Stat. 1955.)

CODIFICATION

Section is based on section ''16——'' of Pub. L. 102–575. Two other sections ''16——'' of Pub. L. 102–575 have been enacted and are classified to sections 390h–21 and 390h–23 of this title.

### § 390h–23. Southern California desert region integrated water and economic sustainability plan

**(a) Authorization**

The Secretary, in cooperation with the Mojave Water Agency is authorized to participate in the design, planning, and construction of projects to implement the ''Mojave Water Agency's Integrated Regional Water Management Plan''.

**(b) Cost share**

The Federal share of the costs of the projects authorized by this section shall not exceed 25 percent of the total cost.

**(c) Authorization of appropriations**

There is authorized to be appropriated to carry out this section, $20,000,000.

(Pub. L. 102–575, title XVI, § 16——, as added Pub. L. 110–161, div. C, title II, § 214(a), Dec. 26, 2007, 121 Stat. 1955.)

CODIFICATION

Section is based on section ''16——'' of Pub. L. 102–575. Two other sections ''16——'' of Pub. L. 102–575 have been enacted and are classified to sections 390h–21 and 390h–22 of this title.

LIMITATION ON FUNDS; CREDITS TOWARD NON-FEDERAL SHARE

Pub. L. 110–161, div. C, title II, § 214(c), (d), Dec. 26, 2007, 121 Stat. 1956, provided that:

''(c) LIMITATION.—The Secretary [of the Interior] shall not provide funds for the operation or maintenance of a project authorized by this section [enacting this section].

''(d) CREDITS TOWARD NON-FEDERAL SHARE.—For purposes of subsection (b) [probably means subsec. (b) of this section] the Secretary shall credit the Mojave Water Agency with the value of all expenditures made prior to the date of the enactment of this Act [Dec. 26, 2007] that are used toward completion of projects that are compatible with this section.''

### § 390h–24. Eastern Municipal Water District recycled water system pressurization and expansion project, California

**(a) Authorization**

The Secretary, in cooperation with the Eastern Municipal Water District, California, may participate in the design, planning, and construction of permanent facilities needed to establish operational pressure zones that will be used to provide recycled water in the district.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $12,000,000.

**(e) Sunset of authority**

The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after May 8, 2008.

(Pub. L. 102–575, title XVI, § 1639, as added Pub. L. 110–229, title V, § 511(a), May 8, 2008, 122 Stat. 840.)

### § 390h–25. Mountain View, Moffett Area reclaimed water pipeline project

**(a) Authorization**

The Secretary, in cooperation with the City of Palo Alto, California, and the City of Mountain View, California, is authorized to participate in the design, planning, and construction of recycled water distribution systems.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $5,000,000.

(Pub. L. 102–575, title XVI, § 1642, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 841.)

### § 390h–26. Pittsburg recycled water project

**(a) Authorization**

The Secretary, in cooperation with the City of Pittsburg, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $1,750,000.

(Pub. L. 102–575, title XVI, § 1643, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 841.)

### § 390h–27. Antioch recycled water project

**(a) Authorization**

The Secretary, in cooperation with the City of Antioch, California, and the Delta Diablo Sanitation District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $2,250,000.

(Pub. L. 102–575, title XVI, § 1644, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 841.)

### § 390h–28. North Coast County Water District recycled water project

**(a) Authorization**

The Secretary, in cooperation with the North Coast County Water District, is authorized to participate in the design, planning, and construction of recycled water system facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $2,500,000.

(Pub. L. 102–575, title XVI, § 1645, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 842.)

### § 390h–29. Redwood City recycled water project

**(a) Authorization**

The Secretary, in cooperation with the City of Redwood City, California, is authorized to participate in the design, planning, and construction of recycled water system facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $1,100,000.

(Pub. L. 102–575, title XVI, § 1646, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 842.)

### § 390h–30. South Santa Clara County recycled water project

**(a) Authorization**

The Secretary, in cooperation with the South County Regional Wastewater Authority and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water system distribution facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $7,000,000.

(Pub. L. 102–575, title XVI, § 1647, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 842.)

### § 390h–31. South Bay advanced recycled water treatment facility

**(a) Authorization**

The Secretary, in cooperation with the City of San Jose, California, and the Santa Clara Valley Water District, is authorized to participate in the design, planning, and construction of recycled water treatment facilities.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $8,250,000.

(Pub. L. 102–575, title XVI, § 1648, as added Pub. L. 110–229, title V, § 512(a)(1), May 8, 2008, 122 Stat. 842.)

### § 390h–32. Rancho California Water District project, California

**(a) Authorization**

The Secretary, in cooperation with the Rancho California Water District, California, may participate in the design, planning, and construction of permanent facilities for water recycling, demineralization, and desalination, and distribution of non-potable water supplies in Southern Riverside County, California.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project or $20,000,000, whichever is less.

**(c) Limitation**

Funds provided by the Secretary under this section shall not be used for operation or maintenance of the project described in subsection (a).

(Pub. L. 102–575, title XVI, § 1649, as added Pub. L. 111–11, title IX, § 9104(a), Mar. 30, 2009, 123 Stat. 1303.)

### § 390h–33. Elsinore Valley Municipal Water District projects, California

**(a) Authorization**

The Secretary, in cooperation with the Elsinore Valley Municipal Water District, Cali-

fornia, may participate in the design, planning, and construction of permanent facilities needed to establish recycled water distribution and wastewater treatment and reclamation facilities that will be used to treat wastewater and provide recycled water in the Elsinore Valley Municipal Water District, California.

**(b) Cost sharing**

The Federal share of the cost of each project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary under this section shall not be used for operation or maintenance of the projects described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $12,500,000.

(Pub. L. 102–575, title XVI, § 1650, as added Pub. L. 111–11, title IX, § 9109(a), Mar. 30, 2009, 123 Stat. 1315.)

## § 390h–34. North Bay Water Reuse Program

**(a) Definitions**

In this section:

**(1) Eligible entity**

The term ''eligible entity'' means a member agency of the North Bay Water Reuse Authority of the State located in the North San Pablo Bay watershed in—

(A) Marin County;
(B) Napa County;
(C) Solano County; or
(D) Sonoma County.

**(2) Water reclamation and reuse project**

The term ''water reclamation and reuse project'' means a project carried out by the Secretary and an eligible entity in the North San Pablo Bay watershed relating to—

(A) water quality improvement;
(B) wastewater treatment;
(C) water reclamation and reuse;
(D) groundwater recharge and protection;
(E) surface water augmentation; or
(F) other related improvements.

**(3) State**

The term ''State'' means the State of California.

**(b) North Bay Water Reuse Program**

**(1) In general**

Contingent upon a finding of feasibility, the Secretary, acting through a cooperative agreement with the State or a subdivision of the State, is authorized to enter into cooperative agreements with eligible entities for the planning, design, and construction of water reclamation and reuse facilities and recycled water conveyance and distribution systems.

**(2) Coordination with other Federal agencies**

In carrying out this section, the Secretary and the eligible entity shall, to the maximum extent practicable, use the design work and environmental evaluations initiated by—

(A) non-Federal entities; and
(B) the Corps of Engineers in the San Pablo Bay Watershed of the State.

**(3) Phased project**

A cooperative agreement described in paragraph (1) shall require that the North Bay Water Reuse Program carried out under this section shall consist of 2 phases as follows:

**(A) First phase**

During the first phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the main treatment and main conveyance systems.

**(B) Second phase**

During the second phase, the Secretary and an eligible entity shall complete the planning, design, and construction of the sub-regional distribution systems.

**(4) Cost sharing**

**(A) Federal share**

The Federal share of the cost of the first phase of the project authorized by this section shall not exceed 25 percent of the total cost of the first phase of the project.

**(B) Form of non-Federal share**

The non-Federal share may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the completion of the water reclamation and reuse project, including—

(i) reasonable costs incurred by the eligible entity relating to the planning, design, and construction of the water reclamation and reuse project; and

(ii) the acquisition costs of land acquired for the project that is—

(I) used for planning, design, and construction of the water reclamation and reuse project facilities; and

(II) owned by an eligible entity and directly related to the project.

**(C) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

**(5) Effect**

Nothing in this section—

(A) affects or preempts—

(i) State water law; or

(ii) an interstate compact relating to the allocation of water; or

(B) confers on any non-Federal entity the ability to exercise any Federal right to—

(i) the water of a stream; or

(ii) any groundwater resource.

**(6) Authorization of appropriations**

There is authorized to be appropriated for the Federal share of the total cost of the first phase of the project authorized by this section $25,000,000, to remain available until expended.

(Pub. L. 102–575, title XVI, § 1651, as added Pub. L. 111–11, title IX, § 9110(a), Mar. 30, 2009, 123 Stat. 1315.)

### § 390h–35. Prado Basin natural treatment system project

**(a) In general**

The Secretary, in cooperation with the Orange County Water District, shall participate in the planning, design, and construction of natural treatment systems and wetlands for the flows of the Santa Ana River, California, and its tributaries into the Prado Basin.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for the operation and maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $10,000,000.

**(e) Sunset of authority**

This section shall have no effect after the date that is 10 years after March 30, 2009.

(Pub. L. 102–575, title XVI, § 1652, as added Pub. L. 111–11, title IX, § 9111(a)(1), Mar. 30, 2009, 123 Stat. 1317.)

### § 390h–36. Lower Chino Dairy Area desalination demonstration and reclamation project

**(a) In general**

The Secretary, in cooperation with the Chino Basin Watermaster, the Inland Empire Utilities Agency, and the Santa Ana Watershed Project Authority and acting under the Federal reclamation laws, shall participate in the design, planning, and construction of the Lower Chino Dairy Area desalination demonstration and reclamation project.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed—

(1) 25 percent of the total cost of the project; or

(2) $26,000,000.

**(c) Limitation**

Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this section.

**(e) Sunset of authority**

This section shall have no effect after the date that is 10 years after March 30, 2009.

(Pub. L. 102–575, title XVI, § 1653, as added Pub. L. 111–11, title IX, § 9111(b)(1), Mar. 30, 2009, 123 Stat. 1317.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (a), are defined in section 390h(a) of this title.

### § 390h–37. Oxnard, California, water reclamation, reuse, and treatment project

**(a) Authorization**

The Secretary, in cooperation with the City of Oxnard, California, may participate in the design, planning, and construction of Phase I permanent facilities for the GREAT project to reclaim, reuse, and treat impaired water in the area of Oxnard, California.

**(b) Cost share**

The Federal share of the costs of the project described in subsection (a) shall not exceed 25 percent of the total cost.

**(c) Limitation**

The Secretary shall not provide funds for the following:

(1) The operations and maintenance of the project described in subsection (a).

(2) The construction, operations, and maintenance of the visitor's center related to the project described in subsection (a).

**(d) Sunset of authority**

The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after March 30, 2009.

(Pub. L. 102–575, title XVI, § 1654, as added Pub. L. 111–11, title IX, § 9113(a), Mar. 30, 2009, 123 Stat. 1319.)

### § 390h–38. Yucaipa Valley regional water supply renewal project

**(a) Authorization**

The Secretary, in cooperation with the Yucaipa Valley Water District, may participate in the design, planning, and construction of projects to treat impaired surface water, reclaim and reuse impaired groundwater, and provide brine disposal within the Santa Ana Watershed as described in the report submitted under section 390h–4 of this title.

**(b) Cost sharing**

The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

Funds provided by the Secretary shall not be used for operation or maintenance of the project described in subsection (a).

**(d) Authorization of appropriations**

There is authorized to be appropriated to carry out this section $20,000,000.

(Pub. L. 102–575, title XVI, § 1655, as added Pub. L. 111–11, title IX, § 9114(a), Mar. 30, 2009, 123 Stat. 1320.)

### § 390h–39. City of Corona Water Utility, California, water recycling and reuse project

**(a) Authorization**

The Secretary, in cooperation with the City of Corona Water Utility, California, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the

service area of the City of Corona Water Utility, California.

**(b) Cost share**

The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

**(c) Limitation**

The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.

(Pub. L. 102–575, title XVI, § 1656, as added Pub. L. 111–11, title IX, § 9114(a), Mar. 30, 2009, 123 Stat. 1320.)

SUBCHAPTER I–A—RECLAMATION REFORM

### § 390aa. Congressional declaration of purpose; short title

This subchapter shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371), hereinafter referred to as ''Federal reclamation law''. This subchapter may be referred to as the ''Reclamation Reform Act of 1982''.

(Pub. L. 97–293, title II, § 201, Oct. 12, 1982, 96 Stat. 1263.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title II (§§ 201–230) of Pub. L. 97–293, Oct. 12, 1982, 96 Stat. 1263, known as the Reclamation Reform Act of 1982, which enacted this subchapter, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians. For complete classification of title II to the Code, see Tables.

Act of 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 390bb. Definitions

As used in this subchapter:

(1) The term ''contract'' means any repayment or water service contract between the United States and a district providing for the payment of construction charges to the United States including normal operation, maintenance, and replacement costs pursuant to Federal reclamation law.

(2) The term ''district'' means any individual or any legal entity established under State law which has entered into a contract or is eligible to contract with the Secretary for irrigation water.

(3)(A) The term ''full cost'' means an annual rate as determined by the Secretary that shall amortize the expenditures for construction properly allocable to irrigation facilities in service, including all operation and maintenance deficits funded, less payments, over such periods as may be required under Federal reclamation law or applicable contract provisions, with interest on both accruing from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982: *Provided*, That operation, maintenance, and replacement charges required under Federal reclamation law, including this subchapter, shall be collected in addition to the full cost charge.

(B) The interest rate used for expenditures made on or before October 12, 1982, shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made, but shall not be less than 7½ per centum per annum.

(C) The interest rate used for expenditures made after October 12, 1982, shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(i) the rate as of the beginning of the fiscal year in which expenditures are made on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(ii) the weighted average yield on all interest-bearing, marketable issues sold by the Treasury during the fiscal year preceding the fiscal year in which the expenditures are made.

(4) The term ''individual'' means any natural person, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code of 1986 (26 U.S.C. 152).

(5) The term ''irrigation water'' means water made available for agricultural purposes from the operation of reclamation project facilities pursuant to a contract with the Secretary.

(6) The term ''landholding'' means total irrigable acreage of one or more tracts of land situated in one or more districts owned or operated under a lease which is served with irrigation water pursuant to a contract with the Secretary. In determining the extent of a landholding the Secretary shall add to any landholding held directly by a qualified or limited recipient that portion of any landholding held indirectly by such qualified or limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

(7) The term ''limited recipient'' means any legal entity established under State or Federal law benefiting more than twenty-five natural persons.

(8) The term ''project'' means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands.

(9) The term ''qualified recipient'' means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five natural persons or less.

(10) The term ''recordable contract'' means a contract between the Secretary and a land-

owner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the ownership limitations of Federal reclamation law including this subchapter.

(11) The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 97–293, title II, § 202, Oct. 12, 1982, 96 Stat. 1263; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

Federal reclamation law, referred to in pars. (1), (3)(A), (8), and (10), is defined in section 390aa of this title.

AMENDMENTS

1986—Par. (4). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

### § 390cc. New or amended contracts

#### (a) Generally

The provisions of this subchapter shall be applicable to any district which—

(1) enters into a contract with the Secretary subsequent to October 12, 1982;

(2) enters into any amendment of its contract with the Secretary subsequent to October 12, 1982, which enables the district to receive supplemental or additional benefits; or

(3) which amends its contract for the purpose of conforming to the provisions of this subchapter.

#### (b) Amendment of existing contracts

Any district which has an existing contract with the Secretary as of October 12, 1982, which does not enter into an amendment of such contract as specified in subsection (a) of this section shall be subject to Federal reclamation law in effect immediately prior to October 12, 1982, as that law is amended or supplemented by sections 209 through 230 of this title [43 U.S.C. 390ii—390zz–1, 373a, 422e, 425b, 485h]. Within a district that does not enter into an amendment of its contract with the Secretary within four and one-half years of October 12, 1982, irrigation water may be delivered to lands leased in excess of a landholding of one hundred and sixty acres only if full cost, as defined in section 390bb(3)(A) of this title, is paid for such water as is assignable to those lands leased in excess of such landholding of one hundred and sixty acres: *Provided*, That the interest rate used in computing full cost under this subsection shall be the same as provided in section 390ee(a)(3) of this title.

#### (c) Election by qualified or limited recipients in absence of amendment to contract

In the absence of an amendment to a contract, as specified in subsection (a) of this section, a qualified recipient or limited recipient may elect to be subject to the provisions of this subchapter by executing an irrevocable election in a form approved by the Secretary to comply with this subchapter. The district shall thereupon deliver irrigation water to and collect from such recipient, for the credit of the United States, the additional charges required by this subchapter and assignable to the recipient making the election.

#### (d) Consent of non-Federal party

Amendments to contracts which are not required by the provisions of this subchapter shall not be made without the consent of the non-Federal party.

(Pub. L. 97–293, title II, § 203, Oct. 12, 1982, 96 Stat. 1264.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (b), is defined in section 390aa of this title.

Sections 209 through 230 of this title, referred to in subsec. (b), are sections 209 through 230 of title II of Pub. L. 97–293, which enacted sections 390ii through 390zz–1 of this title, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians.

### § 390dd. Limitation on ownership

Except as provided in section 390ii of this title, irrigation water may not be delivered to—

(1) a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof; or

(2) a limited recipient for the use in the irrigation of lands owned by such limited recipient in excess of six hundred and forty acres of class I lands or the equivalent thereof;

whether situated in one or more districts.

(Pub. L. 97–293, title II, § 204, Oct. 12, 1982, 96 Stat. 1265.)

### § 390ee. Pricing

#### (a) Delivery of irrigation water at full cost

Notwithstanding any other provision of law, any contract with a district entered into by the Secretary as specified in section 390cc of this title, shall provide for the delivery of irrigation water at full cost as defined in section 390bb(3) of this title to:

(1) a landholding in excess of nine hundred and sixty acres of class I lands or the equivalent thereof for a qualified recipient,[1]

(2) a landholding in excess of three hundred and twenty acres of class I land or the equivalent thereof for a limited recipient receiving irrigation water on or before October 1, 1981; and

(3) the entire landholding of a limited recipient not receiving irrigation water on or before October 1, 1981: *Provided*, That the interest rate used in computing full cost under this paragraph shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(A) the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(B) the weighted average of market yields on all interest-bearing, marketable issues sold by the Treasury

during the fiscal year preceding the fiscal year in which the expenditures are made, or October 12, 1982, for expenditures made before October 12, 1982.

[1] So in original. The comma probably should be a semicolon.

**(b) Delivery of irrigation water at prior terms and conditions**

Any contract with a district entered into by the Secretary as specified in section 390cc of this title, shall provide for the delivery of irrigation water to lands not in excess of the landholdings described in subsection (a) of this section upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to October 12, 1982, or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment. However, the portion of any price established under this subsection which relates to operation and maintenance charges shall be established pursuant to section 390hh of this title.

**(c) Delivery of irrigation water to lands under recordable contracts**

Notwithstanding any extension of time of any recordable contract as provided in section 390ii(e) of this title, lands under recordable contract shall be eligible to receive irrigation water at less than full cost for a period not to exceed ten years from the date such recordable contract was executed by the Secretary in the case of contracts existing prior to October 12, 1982, or five years from the date such recordable contract was executed by the Secretary in the case of contracts entered into subsequent to October 12, 1982, or the time specified in section 390rr of this title for lands described in that section: *Provided*, That in no case shall the right to receive water at less than full cost under this subsection terminate sooner than eighteen months after the date on which the Secretary again commences the processing or the approval of the disposition of such lands.

(Pub. L. 97–293, title II, § 205, Oct. 12, 1982, 96 Stat. 1265.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (b), is defined in section 390aa of this title.

**§ 390ff. Certification of compliance**

As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 390cc of this title, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this subchapter including a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

(Pub. L. 97–293, title II, § 206, Oct. 12, 1982, 96 Stat. 1266.)

**§ 390gg. Equivalency**

Upon the request of any district, the ownership and pricing limitations imposed by this subchapter shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

(Pub. L. 97–293, title II, § 207, Oct. 12, 1982, 96 Stat. 1266.)

**§ 390hh. Operation and maintenance charges**

**(a) Price adequate to recover charges**

The price of irrigation water delivered by the Secretary pursuant to a contract or an amendment to a contract with a district, as specified in section 390cc of this title, shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.

**(b) Modification of price**

Whenever a district enters into a contract or requests that its contract be amended as specified in section 390cc of this title, and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of irrigation water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

**(c) Districts not operating from Federal funds**

This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

(Pub. L. 97–293, title II, § 208, Oct. 12, 1982, 96 Stat. 1267.)

**§ 390ii. Disposition of excess lands**

**(a) Disposal of lands in excess of ownership limitations within reasonable time**

Irrigation water made available in the operation of reclamation project facilities may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by Federal reclamation law, including this subchapter, unless and until the owners thereof shall have executed a recordable contract with the Secretary, in accordance with the terms and conditions required by Federal reclamation law, requiring the disposal of their interest in such excess lands within a reasonable time to be established by the Secretary. In the case of recordable contracts entered into prior to October 12, 1982, such reasonable time shall not exceed ten years after the recordable contract is executed by the Secretary. In the case of recordable contracts entered into after October 12, 1982, except as provided in section 390rr of this title, such reasonable time shall not exceed five years after the recordable contract is executed by the Secretary.

**(b) Continued delivery of irrigation water to lands held in excess of ownership limitations**

Lands held in excess of the ownership limitations imposed by Federal reclamation law, including this subchapter, which, on October 12,

1982, are, or are capable of, receiving delivery of irrigation water made available by the operation of existing reclamation project facilities may receive such deliveries only—

(1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or

(2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

**(c) Amendment of existing recordable contracts**

Recordable contracts existing on October 12, 1982, shall be amended at the request of the landowner to conform with the ownership limitations contained in this subchapter: *Provided*, That the time period for disposal of excess lands specified in the existing recordable contract shall not be extended except as provided in subsection (e) of this section.

**(d) Power of attorney requirement in contracts; exercise of power by Secretary**

Any recordable contract covering excess lands sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the recordable contract. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as the Secretary may establish: *Provided*, That the Secretary shall recover for the owner the fair market value of the land unrelated to irrigation water deliveries plus the fair market value of improvements thereon.

**(e) Extension of time for disposal of excess lands**

In the event that the owner of any lands in excess of the ownership limitations of Federal reclamation law has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.

**(f) Eligibility of excess lands for irrigation water after disposition**

Excess lands which have been or may be disposed of in compliance with Federal reclamation law, including this subchapter, shall not be considered eligible to receive irrigation water unless—

(1) they are held by nonexcess owners; and

(2) in the case of disposals made after October 12, 1982, their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with Federal reclamation law, including this subchapter, for values exceeding the sum of the value of newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of irrigation water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitations on subsequent sale values which might otherwise be imposed by the operation of section 423e of this title.

(Pub. L. 97–293, title II, § 209, Oct. 12, 1982, 96 Stat. 1267.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsecs. (a), (b), (e), and (f), is defined in section 390aa of this title.

**§ 390jj. Water conservation**

**(a) Implementation of program by non-Federal recipients**

The Secretary shall, pursuant to his authorities under otherwise existing Federal reclamation law, encourage the full consideration and incorporation of prudent and responsible water conservation measures in the operations of non-Federal recipients of irrigation water from Federal reclamation projects, where such measures are shown to be economically feasible for such non-Federal recipients.

**(b) Development of plan**

Each district that has entered into a repayment contract or water service contract pursuant to Federal reclamation law or the Water Supply Act of 1958, as amended (43 U.S.C. 390b), shall develop a water conservation plan which shall contain definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives.

**(c) Coordination of ongoing programs; full public participation**

The Secretary is authorized and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.

(Pub. L. 97–293, title II, § 210, Oct. 12, 1982, 96 Stat. 1268.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsecs. (a) and (b), is defined in section 390aa of this title.

The Water Supply Act of 1958, as amended, referred to in subsec. (b), is title III of Pub. L. 85–500, July 3, 1958, 72 Stat. 319, as amended, which enacted section 390b of this title and enacted a provision set out as a note under section 390b of this title. For complete classification of this Act to the Code, see Short Title note set out under section 390b of this title and Tables.

**§ 390kk. Residency not required**

Notwithstanding any other provision of law, irrigation water made available from the oper-

ation of reclamation project facilities shall not be withheld from delivery to any project lands for the reason that the owners, lessees, or operators do not live on or near them.

(Pub. L. 97–293, title II, § 211, Oct. 12, 1982, 96 Stat. 1269.)

### § 390*ll*. Corps of Engineers projects

#### (a) Applicability of Federal reclamation laws

Notwithstanding any other provision of law, neither the ownership or pricing limitation provisions nor the other provisions of Federal reclamation law, including this subchapter, shall be applicable to lands receiving benefits from Federal water resources projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has, by Federal statute, explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

#### (b) Payment of construction, operation, maintenance and administrative costs allocated to conservation or irrigation storage

Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

(Pub. L. 97–293, title II, § 212, Oct. 12, 1982, 96 Stat. 1269.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (a), is defined in section 390aa of this title.

### § 390mm. Repayment of construction charges

#### (a) Ownership and pricing limitations inapplicable when repayment obligation has been discharged

The ownership and full cost pricing limitations of this subchapter and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on October 12, 1982), by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts existing on October 12, 1982.

#### (b) Certification of freedom from ownership and pricing limitations

(1) The Secretary shall provide, upon request of any owner of a landholding for which repayment has occurred, a certificate acknowledging that the landholding is free of the ownership or full cost pricing limitation of Federal reclamation law. Such certificate shall be in a form suitable for entry in the land records of the county in which such landholding is located.

(2) Any certificate issued by the Secretary prior to October 12, 1982, acknowledging that the landholding is free of the acreage limitation of Federal reclamation law is hereby ratified.

#### (c) Lump sum or accelerated repayment of construction costs

Nothing in this subchapter shall be construed as authorizing or permitting lump sum or accelerated repayment of construction costs, except in the case of a repayment contract which is in effect upon October 12, 1982, and which provides for such lump sum or accelerated repayment by an individual or district.

(Pub. L. 97–293, title II, § 213, Oct. 12, 1982, 96 Stat. 1269.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsecs. (a) and (b), is defined in section 390aa of this title.

### § 390nn. Trusts

(a) The ownership and full cost pricing limitations of this subchapter and the ownership limitations provided in any other provision of Federal reclamation law shall not apply to lands in a district which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the lands served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this subchapter.

(b) Lands placed in a revocable trust shall be attributable to the grantor if—

(1) the trust is revocable at the discretion of the grantor and revocation results in the title to such lands reverting either directly or indirectly to the grantor; or

(2) the trust is revoked or terminated by its terms upon the expiration of a specified period of time and the revocation or termination results in the title to such lands reverting either directly or indirectly to the grantor.

(Pub. L. 97–293, title II, § 214, Oct. 12, 1982, 96 Stat. 1270; Pub. L. 100–203, title V, § 5302(b), Dec. 22, 1987, 101 Stat. 1330–269.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (a), is defined in section 390aa of this title.

AMENDMENTS

1987—Pub. L. 100–203 designated existing provisions as subsec. (a) and added subsec. (b).

### § 390*oo*. Temporary supplies of water

#### (a) Limitations inapplicable

Neither the ownership limitations of this subchapter nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which receive only a temporary, not to exceed one year, supply of water made possible as a result of—

(1) an unusually large water supply not otherwise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration.

**(b) Waiver of payment for temporary water supplies**

The Secretary shall have the authority to waive payments for a supply of water described in subsection (a) of this section.

(Pub. L. 97–293, title II, § 215, Oct. 12, 1982, 96 Stat. 1270.)

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (a), is defined in section 390aa of this title.

### § 390pp. Involuntary foreclosure

Neither the ownership limitations of this subchapter nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands when the lands are acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), by inheritance, or by devise: *Provided*, That such lands were eligible to receive irrigation water prior to such transfer of title or the mortgaged lands became ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: *Provided further*, That if, after acquisition, such lands are not qualified under Federal reclamation law, including this subchapter, they shall be furnished temporarily with an irrigation water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of irrigation water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: *Provided further*, That the provisions of section 390ee of this title shall be applicable separately to each acquisition under this section if the lands are otherwise subject to the provisions of section 390ee of this title.

(Pub. L. 97–293, title II, § 216, Oct. 12, 1982, 96 Stat. 1270.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390qq. Isolated tracts

Neither the ownership limitations of this subchapter nor the ownership limitations of any other provision of Federal reclamation law shall apply to lands which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed such ownership limitations.

(Pub. L. 97–293, title II, § 217, Oct. 12, 1982, 96 Stat. 1270.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390rr. Central Arizona Project

Lands receiving irrigation water pursuant to a contract with the Secretary as authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521 et seq.) which are placed under recordable contract shall be eligible to receive irrigation water upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to October 12, 1982, for a period of time not to exceed ten years from the date such lands are capable of being served with irrigation water, as determined by the Secretary.

(Pub. L. 97–293, title II, § 218, Oct. 12, 1982, 96 Stat. 1271.)

REFERENCES IN TEXT

The Colorado River Basin Project Act, referred to in text, is Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended. Title III of the Colorado River Basin Project Act is classified generally to subchapter III (§ 1521 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.

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390ss. Religious or charitable organizations

An individual religious or charitable entity or organization (including but not limited to a congregation, parish, school, ward, or chapter) which is exempt from taxation under section 501 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 501), and which owns, operates, or leases any lands within a district shall be treated as an individual under the provisions of this subchapter regardless of such entity or organization's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith and regardless of whether or not the individual entity is the owner of record if—

(1) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(2) said land is operated by said individual religious or charitable entity or organization (or subdivisions thereof); and

(3) no part of the net earnings of such religious or charitable entity or organization (or subdivision thereof) shall inure to the benefit of any private shareholder or individual.

(Pub. L. 97–293, title II, § 219, Oct. 12, 1982, 96 Stat. 1271; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

AMENDMENTS

1986—Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

### § 390tt. Contract required

Irrigation water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such irrigation water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use of such irrigation water, exe-

cuted in accordance with the Reclamation Project Act of 1939 [43 U.S.C. 485 et seq.], or other applicable provisions of Federal reclamation law.

(Pub. L. 97–293, title II, § 220, Oct. 12, 1982, 96 Stat. 1271.)

REFERENCES IN TEXT

The Reclamation Project Act of 1939, referred to in text, is act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, which is classified principally to subchapter X (§ 485 et seq.) of this chapter. For complete classification of this Act to the Code, see section 485k of this title and Tables.

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390uu. Waiver of sovereign immunity

Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to Federal reclamation law. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, and shall be subject to judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated.

(Pub. L. 97–293, title II, § 221, Oct. 12, 1982, 96 Stat. 1271.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390vv. Excess crop restrictions

#### (a) Report to Congress on production of surplus crops on acreage served by irrigation water

Within one year of October 12, 1982, the Secretary of Agriculture, with the cooperation of the Secretary of the Interior, shall transmit to the Congress a report on the production of surplus crops on acreage served by irrigation water. The report shall include—

(1) data delineating the production of surplus crops on lands served by irrigation water;

(2) the percentage of participation of farms served by irrigation water in set-aside programs, by acreage, crop, and State;

(3) the feasibility and appropriateness of requiring the participation in acreage set-aside programs of farms served by irrigation water and the costs of such a requirement; and

(4) any recommendations concerning how to coordinate national reclamation policy with agriculture policy to help alleviate recurring problems of surplus crops and low commodity prices.

#### (b) Restrictions prohibiting delivery of irrigation water for production of excess basic agricultural commodities

In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before October 12, 1982, any restriction prohibiting the delivery of irrigation water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

(Pub. L. 97–293, title II, § 222, Oct. 12, 1982, 96 Stat. 1272.)

### § 390ww. Administrative provisions

#### (a) Existing Federal reclamation law

The provisions of Federal reclamation law shall remain in full force and effect, except to the extent such law is amended by, or is inconsistent with, this subchapter.

#### (b) Existing statutory exemptions from ownership or pricing limitations of Federal reclamation law

Nothing in this subchapter shall repeal or amend any existing statutory exemptions from the ownership or pricing limitations of Federal reclamation law.

#### (c) Regulations; collection of necessary data

The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this subchapter and other provisions of Federal reclamation law.

#### (d) Omitted

#### (e) Sale of nonexcess land acquired into excess status pursuant to involuntary process of law, etc.

Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or similar involuntary process of law, conveyance in satisfaction of a debt (including, but not limited to, a mortgage, real estate contract, or deed of trust), inheritance, or devise, may be sold at its fair market value without regard to any other provision of this subchapter or to section 423e of this title: *Provided*, That if the status of mortgaged land changes from nonexcess into excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law, by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value.

#### (f) Omitted

#### (g) Annual audit of compliance with reclamation laws

In addition to any other audit or compliance activities which may otherwise be undertaken, the Secretary of the Interior, or his designee, shall conduct a thorough audit of the compliance with the reclamation law of the United States, specifically including this subchapter, by legal entities and individuals subject to such law. At a minimum, the Secretary shall complete audits of those legal entities and individuals whose landholdings or operations exceed 960 acres within 3 years.

#### (h) Recordable contracts executed prior to October 12, 1982

The provisions of section 390ee(c) of this title are and have been applicable to all recordable

contracts executed prior to October 12, 1982, and any decision, rule, or regulation promulgated by the Department of the Interior to the contrary is hereby revoked: *Provided*, That notwithstanding the provisions of subsection (i) of this section, the Secretary shall not seek reimbursement for any amounts due under this subsection or section 390ee(c) of this title which was due prior to December 22, 1987.

**(i) Collection of underpayment with interest for irrigation water**

When the Secretary finds that any individual or legal entity subject to reclamation law, including this subchapter, has not paid the required amount for irrigation water delivered to a landholding pursuant to reclamation law, including this subchapter, he shall collect the amount of any underpayment with interest accruing from the date the required payment was due until paid. The interest rate shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing marketable issues sold by the Treasury during the period of underpayment.

(Pub. L. 97–293, title II, § 224, Oct. 12, 1982, 96 Stat. 1272; Pub. L. 100–203, title V, § 5302(a), Dec. 22, 1987, 101 Stat. 1330–268; Pub. L. 103–437, § 16(a)(3), Nov. 2, 1994, 108 Stat. 4594; Pub. L. 104–66, title I, § 1081(d), Dec. 21, 1995, 109 Stat. 721.)

REFERENCES IN TEXT

The Federal reclamation law, referred to in subsecs. (a) to (c), is defined in section 390aa of this title.

This subchapter, referred to in subsecs. (a) to (c) and (e), was in the original ''this title'', meaning title II (§§ 201–230) of Pub. L. 97–293, Oct. 12, 1982, 96 Stat. 1263, known as the Reclamation Reform Act of 1982, which enacted this subchapter, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians. For complete classification of title II to the Code, see Tables.

This subchapter, referred to in subsecs. (g) and (i), was in the original ''this Act'' and was translated as reading ''this title''. See note above.

CODIFICATION

Section is comprised of section 224 of Pub. L. 97–293. Subsec. (d) of section 224 amended section 425 of this title. Subsec. (f) of section 224 repealed section 383 of Title 25, Indians, and amended section 385 of Title 25.

AMENDMENTS

1995—Subsec. (g). Pub. L. 104–66 struck out at end ''The Secretary shall submit an annual written report to the Senate Committee on Energy and Natural Resources and the House Committee on Natural Resources. Such report shall summarize the legal entities and individuals audited, the results of such audits, and the actions taken by the Secretary to correct any instances of noncompliance with the reclamation law.''

1994—Subsec. (g). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' after ''House Committee on''.

1987—Subsecs. (g) to (i). Pub. L. 100–203 added subsecs. (g) to (i).

### § 390xx. Validation of contracts entered into prior to October 1, 1981

The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States.

(Pub. L. 97–293, title II, § 225, Oct. 12, 1982, 96 Stat. 1273.)

### § 390yy. Leasing requirements

Notwithstanding any other provision of Federal reclamation law, including this subchapter, lands which receive irrigation water may be leased only if the lease instrument is—

(1) written; and

(2) for a term not to exceed ten years, including any exercisable options: *Provided, however*, That leases of lands for the production of perennial crops having an average life of more than ten years may be for periods of time equal to the average life of the perennial crop but in any event not to exceed twenty-five years.

(Pub. L. 97–293, title II, § 227, Oct. 12, 1982, 96 Stat. 1273.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390zz. Reporting

Any contracting entity subject to the ownership or pricing limitations of Federal reclamation law shall compile and maintain such records and information as the Secretary deems reasonably necessary to implement this subchapter and Federal reclamation law. On a date set by the Secretary following October 12, 1982, and annually thereafter, every such contracting entity shall provide in a form suitable to the Secretary such reports on the above matters as the Secretary may require.

(Pub. L. 97–293, title II, § 228, Oct. 12, 1982, 96 Stat. 1274.)

REFERENCES IN TEXT

Federal reclamation law, referred to in text, is defined in section 390aa of this title.

### § 390zz–1. Severability

If any provision of this subchapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 97–293, title II, § 230, Oct. 12, 1982, 96 Stat. 1274.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title II (§§ 201–230) of Pub. L. 97–293, Oct. 12, 1982, 96 Stat. 1263, known as the Reclamation Reform Act of 1982, which enacted this subchapter, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians. For complete classification of title II to the Code, see Tables.

## SUBCHAPTER II—RECLAMATION FUND GENERALLY

### § 391. Establishment of "reclamation fund"

All moneys received from the sale and disposal of public lands in Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming, beginning with the fiscal year ending June 30, 1901, including the surplus of fees and commissions in excess of allowances to officers designated by the Secretary of the Interior, and excepting the 5 per centum of the proceeds of the sales of public lands in the above States set aside by law for educational and other purposes, shall be, and the same are, reserved, set aside, and appropriated as a special fund in the Treasury to be known as the ''reclamation fund'', to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of waters for the reclamation of arid and semiarid lands in the said States and Territories, and for the payment of all other expenditures provided for in this Act.

The provisions of the Act entitled ''An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands,'' approved June seventeenth, nineteen hundred and two, be, and the same are hereby, extended so as to include and apply to the State of Texas, American Samoa, Guam, the Northern Mariana Islands and the Virgin Islands..[1]

(June 17, 1902, ch. 1093, § 1 (part), 32 Stat. 388; June 12, 1906, ch. 3288, 34 Stat. 259; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 99–396, § 17, Aug. 27, 1986, 100 Stat. 843.)

REFERENCES IN TEXT

This Act, referred to in first par., and the Act entitled ''An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands,'' approved June seventeenth, nineteen hundred and two, referred to in second par., are act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this Title and Tables.

CODIFICATION

The first paragraph of this section is comprised of act June 17, 1902, and the second paragraph is comprised of act June 12, 1906, as amended.

AMENDMENTS

1986—Pub. L. 99–396 inserted reference to American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands in second par.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Words ''officers designated by the Secretary of the Interior'' substituted for ''registers'' on authority of section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 391a. Advances to reclamation fund

The Secretary of the Treasury is authorized, upon request of the Secretary of the Interior and upon approval of the President, to transfer from time to time to the credit of the reclamation fund created by section 391 of this title, such sum or sums, not exceeding in the aggregate $5,000,000, as the Secretary of the Interior may deem necessary for the construction and operation of reclamation projects authorized under the Act of June 17, 1902 (32 Stat. 388), and under way on March 3, 1931, and Acts amendatory thereof or supplementary thereto.

(Mar. 3, 1931, ch. 435, § 1, 46 Stat. 1507.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 391a–1. Increase in reclamation fund; reimbursement of advances from Treasury

The Secretary of the Treasury is authorized and directed to transfer to the credit of the reclamation fund, created by section 391 of this title, a sum equal to the difference between (1) 52½ per centum of the moneys which the Secretary of the Treasury shall determine to have accrued to the United States from lands within the naval petroleum reserves, except those in Alaska, from February 25, 1920, to June 30, 1938, inclusive, and (2) the total of all sums advanced to the reclamation fund under the provisions of sections 397 and 398 to 400 of this title, and under the provisions of sections 391a and 391b of this title, and not reimbursed by transfer from the reclamation fund to the general funds in the Treasury. The transaction provided for in this section shall be deemed to have effected a complete reimbursement to the general funds in the Treasury of all sums advanced to the reclamation fund under the provisions of such sections 391a, 391b, 397, and 398 to 400 of this title.

(May 9, 1938, ch. 187, 52 Stat. 322.)

REFERENCES IN TEXT

Sections 391b and 399 of this title, referred to in text, contained provisions similar to those comprising this section, and were omitted from the Code.

### § 391b. Omitted

CODIFICATION

Section, act Mar. 3, 1931, ch. 435, § 2, 46 Stat. 1507, related to reimbursement of general fund for moneys ad-

[1] So in original.

vanced under section 391a of this title. See section 391a–1 of this title.

### § 392. Payments into reclamation fund of moneys received from entrymen and water right applicants

All moneys received from entrymen or applicants for water rights shall be paid into the reclamation fund.

(June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

CODIFICATION

Section is comprised of fourth sentence of section 5 of act June 17, 1902. First, second and fifth sentences of such section 5 were classified to sections 439, 431 and 381 of this title, respectively; part of third sentence was classified to section 476 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 392a. Payment into reclamation fund of receipts from irrigation projects; transfer of power revenues to General Treasury after repayment of construction costs

All moneys received by the United States in connection with any irrigation projects, including the incidental power features thereof, constructed by the Secretary of the Interior through the Bureau of Reclamation, and financed in whole or in part with moneys heretofore or hereafter appropriated or allocated therefor by the Federal Government, shall be covered into the reclamation fund, except in cases where provision has been made by law or contract for the use of such revenues for the benefit of users of water from such project: *Provided*, That after the net revenues derived from the sale of power developed in connection with any of said projects shall have repaid those construction costs of such project allocated to power to be repaid by power revenues therefrom and shall no longer be required to meet the contractual obligations of the United States, then said net revenues derived from the sale of power developed in connection with such project shall, after the close of each fiscal year, be transferred to and covered into the General Treasury as ''miscellaneous receipts'': *Provided further*, That nothing in this section shall be construed to amend the Boulder Canyon Project Act (45 Stat. 1057), as amended [43 U.S.C. 617 et seq.], or to apply to irrigation projects of the Office of Indian Affairs.

(May 9, 1938, ch. 187, 52 Stat. 322.)

REFERENCES IN TEXT

The Boulder Canyon Project Act (45 Stat. 1057), as amended, 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 chapter 12A of this title. For complete classification of this Act to the Code, see section 617t of this title and Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 393. Proceeds from sale of materials, etc.

There shall be covered into the reclamation fund the proceeds of the sales of material utilized for temporary work and structures in connection with the operations under the Act of June 17, 1902, known as the reclamation Act, as well as of the sales of all other condemned property which had been purchased under the provisions thereof, and also any moneys refunded in connection with the operations under said reclamation Act.

(Mar. 3, 1905, ch. 1459, 33 Stat. 1032.)

REFERENCES IN TEXT

Act of June 17, 1902, known as the reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 394. Proceeds from sale of products of or leases of withdrawn or reserved lands

The proceeds heretofore or hereafter received from the lease of any lands reserved or withdrawn under the reclamation law or from the sale of the products therefrom shall be covered into the reclamation fund; and where such lands are affected by a reservation or withdrawal under some other law, the proceeds from the lease of land and the sale of products therefrom shall likewise be covered into the reclamation fund in all cases where such lands are needed for the protection or operation of any reservoir or other works constructed under the reclamation law, and such lands shall be and remain under the jurisdiction of the Secretary of the Interior.

(July 19, 1919, ch. 24, 41 Stat. 202.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is identified in act July 19, 1919, ch. 24, 41 Stat. 200, under the heading ''RECLAMATION SERVICE'', as act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto. Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 395. Contributions by State, municipality, etc.

All moneys received after March 4, 1921, from any State, municipality, corporation, association, firm, district, or individual for investigations, surveys, construction work, or any other development work incident thereto involving operations similar to those provided for by the reclamation law shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which contributed in like manner as if said sums had been specifically appropriated for said purposes.

(Mar. 4, 1921, ch. 161, 41 Stat. 1404.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is identified in act Mar. 4, 1921, ch. 161, 41 Stat. 1402, under the heading ''RECLAMATION SERVICE'', as act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto. Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this

chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 396. Return of contributions to cooperative investigations of projects

On and after December 25, 1924, the Secretary of the Interior is authorized to receive moneys from any State, municipality, irrigation district, individual, or other interest, public or private, expend the same in connection with moneys appropriated by the United States for any cooperative investigation of the feasibility of reclamation projects, and return to the contributor any moneys so contributed in excess of the actual cost of that portion of the work properly chargeable to the contribution.

(Dec. 5, 1924, ch. 4, § 1, 43 Stat. 685.)

### § 397. Advances by Government for completion of projects initiated prior to June 25, 1910

To enable the Secretary of the Interior to complete Government reclamation projects begun prior to June 25, 1910, the Secretary of the Treasury is authorized, as of June 25, 1910, upon request of the Secretary of the Interior, to transfer from time to time to the credit of the reclamation fund created by section 391 of this title, such sum or sums, not exceeding in the aggregate $20,000,000, as the Secretary of the Interior may deem necessary to complete the said reclamation projects, and such extensions thereof as he may deem proper and necessary to the successful and profitable operation and maintenance thereof or to protect water rights pertaining thereto claimed by the United States, provided the same shall be approved by the President of the United States; and such sum or sums as may be required to comply with the foregoing authority are appropriated, as of June 25, 1910, out of any money in the Treasury not otherwise appropriated: *Provided*, That the sums authorized to be transferred to the reclamation fund shall be so transferred only as such sums shall be actually needed to meet payments for work performed under existing law: *And provided further*, That all sums so transferred shall be reimbursed to the Treasury from the reclamation fund, as hereinafter provided: *And provided further*, That no part of this appropriation shall be expended upon any project existing June 25, 1910, until it shall have been examined and reported upon by a board of engineer officers of the Army, designated by the President of the United States, and until it shall be approved by the President as feasible and practicable and worthy of such expenditure; nor shall any portion of this appropriation be expended upon any project initiated after June 25, 1910.

(June 25, 1910, ch. 407, § 1, 36 Stat. 835.)

### § 397a. Advances for operation and maintenance of projects

Any moneys which may have been heretofore or may be hereafter advanced for operation and maintenance of any project or any division of a project shall be covered into the reclamation fund and shall be available for expenditure for the purposes for which advanced in like manner as if said funds had been specifically appropriated for said purposes.

(Jan. 12, 1927, ch. 27, 44 Stat. 957.)

### § 398. Sales of Government certificates to obtain funds for advances

For the purpose of providing the Treasury with funds for the advances to the reclamation fund, provided for in section 397 of this title, the Secretary of the Treasury is authorized to issue certificates of indebtedness of the United States in such form as he may prescribe and in denominations of $50, or multiples of that sum; said certificates to be redeemable at the option of the United States at any time after three years from the date of their issue and to be payable five years after such date, and to bear interest, payable semiannually, at not exceeding 3 per centum per annum; the principal and interest to be payable in gold coin of the United States. The certificates of indebtedness herein authorized may be disposed of by the Secretary of the Treasury at not less than par, under such rules and regulations as he may prescribe, giving all citizens of the United States an equal opportunity to subscribe therefor, but no commission shall be allowed and the aggregate issue of such certificates shall not exceed the amount of all advances made to said reclamation fund, and in no event shall the same exceed the sum of $20,000,000. The certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under State, municipal, or local authority; and a sum not exceeding one-tenth of 1 per centum of the amount of the certificates of indebtedness issued under this section is appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same.

(June 25, 1910, ch. 407, § 2, 36 Stat. 835.)

### § 399. Omitted

CODIFICATION

Section, acts June 25, 1910, ch. 407, § 3, 36 Stat. 836; June 12, 1917, ch. 27, 40 Stat. 149, related to repayment of advances made under sections 397 and 398 of this title. See section 391a–1 of this title.

### § 400. Advances as item of cost of construction and maintenance of project

All money placed to the credit of the reclamation fund in pursuance of sections 397 and 398 to 400, of this title shall be devoted exclusively to the completion of work on reclamation projects begun prior to June 25, 1910, as hereinbefore provided, and the same shall be included with all other expenses in future estimates of construction, operation, or maintenance.

(June 25, 1910, ch. 407, § 4, 36 Stat. 836.)

REFERENCES IN TEXT

Section 399 of this title, included within reference in text to sections 398 to 400, was omitted from the Code. See section 391a–1 of this title.

CODIFICATION

Section is comprised of first clause of section 4 of act June 25, 1910. Second clause of such section 4 is classified to section 413 of this title.

### § 401. Amounts collected from defaulting contractors and their sureties

Any amounts collected from defaulting contractors or their sureties, including collections heretofore made, in connection with contracts entered into under the reclamation law, either collected in cash or by deduction from amounts otherwise due such contractors, shall be covered into the reclamation fund and shall be credited to the project or operation for or on account of which such contract was made.

(June 6, 1930, ch. 410, 46 Stat. 522.)

### § 402. Omitted

CODIFICATION

Section, acts Apr. 1, 1932, ch. 95, § 10, 47 Stat. 78; Mar. 3, 1933, ch. 200, § 2, 47 Stat. 1427, related to repayment of advances under sections 391a and 397 of this title. See section 391a–1 of this title.

### §§ 403, 404. Repealed. June 30, 1947, ch. 166, title II, § 206(c), 61 Stat. 208

Section 403, acts May 12, 1933, ch. 25, title II, § 36, 48 Stat. 49; June 16, 1933, ch. 101, § 19, 48 Stat. 308; June 19, 1934, ch. 653, § 11, 48 Stat. 1110; June 27, 1934, ch. 851, 48 Stat. 1269, related to refinancing agricultural improvement districts.

Section 404, act May 12, 1933, ch. 25, title II, § 37, 48 Stat. 50, related to advances by the former Reconstruction Finance Corporation.

## SUBCHAPTER II–A—RECLAMATION WATER SETTLEMENTS FUND

### § 407. Reclamation Water Settlements Fund

**(a) Establishment**

There is established in the Treasury of the United States a fund, to be known as the ''Reclamation Water Settlements Fund'', consisting of—

(1) such amounts as are deposited to the Fund under subsection (b); and

(2) any interest earned on investment of amounts in the Fund under subsection (d).

**(b) Deposits to Fund**

**(1) In general**

For each of fiscal years 2020 through 2029, the Secretary of the Treasury shall deposit in the Fund, if available, $120,000,000 of the revenues that would otherwise be deposited for the fiscal year in the fund established by section 391 of this title.

**(2) Availability of amounts**

Amounts deposited in the Fund under paragraph (1) shall be made available pursuant to this section—

(A) without further appropriation; and

(B) in addition to amounts appropriated pursuant to any authorization contained in any other provision of law.

**(c) Expenditures from Fund**

**(1) In general**

**(A) Expenditures**

Subject to subparagraph (B), for each of fiscal years 2020 through 2034, the Secretary may expend from the Fund an amount not to exceed $120,000,000, plus the interest accrued in the Fund, for the fiscal year in which expenditures are made pursuant to paragraphs (2) and (3).

**(B) Additional expenditures**

The Secretary may expend more than $120,000,000 for any fiscal year if such amounts are available in the Fund due to expenditures not reaching $120,000,000 for prior fiscal years.

**(2) Authority**

The Secretary may expend money from the Fund to implement a settlement agreement approved by Congress that resolves, in whole or in part, litigation involving the United States, if the settlement agreement or implementing legislation requires the Bureau of Reclamation to provide financial assistance for, or plan, design, and construct—

(A) water supply infrastructure; or

(B) a project—

(i) to rehabilitate a water delivery system to conserve water; or

(ii) to restore fish and wildlife habitat or otherwise improve environmental conditions associated with or affected by, or located within the same river basin as, a Federal reclamation project that is in existence on March 30, 2009.

**(3) Use for completion of project and other settlements**

**(A) Priorities**

**(i) First priority**

**(I) In general**

The first priority for expenditure of amounts in the Fund during the entire period in which the Fund is in existence shall be for the purposes described in, and in the order of, clauses (i) through (iv) of subparagraph (B).

**(II) Reserved amounts**

The Secretary shall reserve and use amounts deposited into the Fund in accordance with subclause (I).

**(ii) Other purposes**

Any amounts in the Fund that are not needed for the purposes described in subparagraph (B) may be used for other purposes authorized in paragraph (2).

**(B) Completion of project**

**(i) Navajo-Gallup water supply project**

**(I) In general**

Subject to subclause (II), effective beginning January 1, 2020, if, in the judgment of the Secretary on an annual basis the deadline described in section 10701(e)(1)(A)(ix)[1] is unlikely to be met because a sufficient amount of funding is not otherwise available through appropriations made available pursuant to section 10609(a),[1] the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the

[1] See References in Text note below.

Federal share of the costs, and substantially complete as expeditiously as practicable, the construction of the water supply infrastructure authorized as part of the Project.

**(II) Maximum amount**

**(aa) In general**

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $500,000,000 for the period of fiscal years 2020 through 2029.

**(bb) Exception**

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (ii) through (iv).

**(ii) Other New Mexico settlements**

**(I) In general**

Subject to subclause (II), effective beginning January 1, 2020, in addition to the funding made available under clause (i), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing the Indian water rights settlement agreements entered into by the State of New Mexico in the Aamodt adjudication and the Abeyta adjudication, if such settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

**(II) Maximum amount**

The amount expended under subclause (I) shall not exceed $250,000,000.

**(iii) Montana settlements**

**(I) In general**

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i) and (ii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing Indian water rights settlement agreements entered into by the State of Montana with the Blackfeet Tribe, the Crow Tribe, or the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation in the judicial proceeding entitled ''In re the General Adjudication of All the Rights to Use Surface and Groundwater in the State of Montana'', if a settlement or settlements are subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

**(II) Maximum amount**

**(aa) In general**

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $350,000,000 for the period of fiscal years 2020 through 2029.

**(bb) Exception**

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clause (i), (ii), and (iv).

**(cc) Other funding**

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit the funding available pursuant to clauses (i) and (ii).

**(iv) Arizona settlement**

**(I) In general**

Subject to subclause (II), effective beginning January 1, 2020, in addition to funding made available pursuant to clauses (i), (ii), and (iii), if in the judgment of the Secretary on an annual basis a sufficient amount of funding is not otherwise available through annual appropriations, the Secretary shall expend from the Fund such amounts on an annual basis consistent with paragraphs (1) and (2), as are necessary to pay the Federal share of the remaining costs of implementing an Indian water rights settlement agreement entered into by the State of Arizona with the Navajo Nation to resolve the water rights claims of the Nation in the Lower Colorado River basin in Arizona, if a settlement is subsequently approved and authorized by an Act of Congress and the implementation period has not already expired.

**(II) Maximum amount**

**(aa) In general**

Except as provided under item (bb), the amount expended under subclause (I) shall not exceed $100,000,000 for the period of fiscal years 2020 through 2029.

**(bb) Exception**

The limitation on the expenditure amount under item (aa) may be exceeded during the entire period in which the Fund is in existence if such additional funds can be expended without limiting the amounts identified in clauses (i) through (iii).

**(cc) Other funding**

The Secretary shall ensure that any funding under this clause shall be provided in a manner that does not limit

the funding available pursuant to clauses (i) and (ii).

**(C) Reversion**

If the settlements described in clauses (ii) through (iv) of subparagraph (B) have not been approved and authorized by an Act of Congress by December 31, 2019, the amounts reserved for the settlements shall no longer be reserved by the Secretary pursuant to subparagraph (A)(i) and shall revert to the Fund for any authorized use, as determined by the Secretary.

**(d) Investment of amounts**

**(1) In general**

The Secretary shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

**(2) Credits to Fund**

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

**(e) Transfers of amounts**

**(1) In general**

The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

**(2) Adjustments**

Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

**(f) Termination**

On September 30, 2034—

(1) the Fund shall terminate; and

(2) the unexpended and unobligated balance of the Fund shall be transferred to the appropriate fund of the Treasury.

(Pub. L. 111–11, title X, §10501, Mar. 30, 2009, 123 Stat. 1375.)

REFERENCES IN TEXT

Section 10701(e)(1)(A)(ix), referred to in subsec. (c)(3)(B)(i)(I), is section 10701(e)(1)(A)(ix) of Pub. L. 111–11, which is set out as a note under section 620 of this title.

Section 10609(a), referred to in subsec. (c)(3)(B)(i)(I), is section 10609(a) of title X of Pub. L. 111–11, Mar. 30, 2009, 123 Stat. 1395, which is not classified to the Code.

COMPLIANCE WITH ENVIRONMENTAL LAWS

Pub. L. 111–11, title X, §10303, Mar. 30, 2009, 123 Stat. 1370, provided that:

''(a) EFFECT OF EXECUTION OF AGREEMENT.—The execution of the Agreement under section 10701(a)(2) [43 U.S.C. 620 note] shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(b) COMPLIANCE WITH ENVIRONMENTAL LAWS.—In carrying out this subtitle [subtitle B (§§10301–10704) of title X of Pub. L. 111–11, see Definitions note below], the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

''(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).''

DEFINITIONS

Pub. L. 111–11, title X, §10302, Mar. 30, 2009, 123 Stat. 1367, provided that: ''In this subtitle [subtitle B (§§10301–10704) of title X of Pub. L. 111–11, enacting this section, former section 615jj, and section 620n–1 of this title, amending former section 615ss and sections 620 and 620*o* of this title, repealing former section 615jj of this title, and enacting provisions set out as notes under this section and sections 371 and 620 of this title]:

''(1) AAMODT ADJUDICATION.—The term 'Aamodt adjudication' means the general stream adjudication that is the subject of the civil action entitled 'State of New Mexico, ex rel. State Engineer and United States of America, Pueblo de Nambe, Pueblo de Pojoaque, Pueblo de San Ildefonso, and Pueblo de Tesuque v. R. Lee Aamodt, et al.', No. 66 CV 6639 MV/LCS (D.N.M.).

''(2) ABEYTA ADJUDICATION.—The term 'Abeyta adjudication' means the general stream adjudication that is the subject of the civil actions entitled 'State of New Mexico v. Abeyta and State of New Mexico v. Arrellano', Civil Nos. 7896–BB (D.N.M) and 7939–BB (D.N.M.) (consolidated).

''(3) ACRE-FEET.—The term 'acre-feet' means acre-feet per year.

''(4) AGREEMENT.—The term 'Agreement' means the agreement among the State of New Mexico, the Nation, and the United States setting forth a stipulated and binding agreement signed by the State of New Mexico and the Nation on April 19, 2005.

''(5) ALLOTTEE.—The term 'allottee' means a person that holds a beneficial real property interest in a Navajo allotment that—

''(A) is located within the Navajo Reservation or the State of New Mexico;

''(B) is held in trust by the United States; and

''(C) was originally granted to an individual member of the Nation by public land order or otherwise.

''(6) ANIMAS-LA PLATA PROJECT.—The term 'Animas-La Plata Project' has the meaning given the term in section 3 of Public Law 100–585 (102 Stat. 2973), including Ridges Basin Dam, Lake Nighthorse, the Navajo Nation Municipal Pipeline, and any other features or modifications made pursuant to the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106–554; 114 Stat. 2763A–258).

''(7) CITY.—The term 'City' means the city of Gallup, New Mexico, or a designee of the City, with authority to provide water to the Gallup, New Mexico service area.

''(8) COLORADO RIVER COMPACT.—The term 'Colorado River Compact' means the Colorado River Compact of 1922 as approved by Congress in the Act of December 21, 1928 (45 Stat. 1057) and by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000).

''(9) COLORADO RIVER SYSTEM.—The term 'Colorado River System' has the same meaning given the term in Article II(a) of the Colorado River Compact.

''(10) COMPACT.—The term 'Compact' means the Upper Colorado River Basin Compact as consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48).

''(11) CONTRACT.—The term 'Contract' means the contract between the United States and the Nation setting forth certain commitments, rights, and obligations of the United States and the Nation, as described in paragraph 6.0 of the Agreement.

''(12) DEPLETION.—The term 'depletion' means the depletion of the flow of the San Juan River stream system in the State of New Mexico by a particular use of water (including any depletion incident to the use) and represents the diversion from the stream system by the use, less return flows to the stream system from the use.

''(13) DRAFT IMPACT STATEMENT.—The term 'Draft Impact Statement' means the draft environmental impact statement prepared by the Bureau of Reclamation for the Project dated March 2007.

''(14) FUND.—The term 'Fund' means the Reclamation Waters Settlements Fund established by section 10501(a) [43 U.S.C. 407(a)].

''(15) HYDROLOGIC DETERMINATION.—The term 'hydrologic determination' means the hydrologic determination entitled 'Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,' prepared by the Bureau of Reclamation pursuant to section 11 of the Act of June 13, 1962 (Public Law 87–483; 76 Stat. 99) [former 43 U.S.C. 615ss], and dated May 23, 2007.

''(16) LOWER BASIN.—The term 'Lower Basin' has the same meaning given the term in Article II(g) of the Colorado River Compact.

''(17) NATION.—The term 'Nation' means the Navajo Nation, a body politic and federally-recognized Indian nation as provided for in section 101(2) [102(2)] of the Federally Recognized Indian Tribe List [Act] of 1994 (25 U.S.C. 497a(2) [479a(2)]), also known variously as the 'Navajo Tribe,' the 'Navajo Tribe of Arizona, New Mexico & Utah,' and the 'Navajo Tribe of Indians' and other similar names, and includes all bands of Navajo Indians and chapters of the Navajo Nation.

''(18) NAVAJO-GALLUP WATER SUPPLY PROJECT; PROJECT.—The term 'Navajo-Gallup Water Supply Project' or 'Project' means the Navajo-Gallup Water Supply Project authorized under section 10602(a) [123 Stat. 1379], as described as the preferred alternative in the Draft Impact Statement.

''(19) NAVAJO INDIAN IRRIGATION PROJECT.—The term 'Navajo Indian Irrigation Project' means the Navajo Indian irrigation project authorized by section 2 of Public Law 87–483 (76 Stat. 96) [former 43 U.S.C. 615jj].

''(20) NAVAJO RESERVOIR.—The term 'Navajo Reservoir' means the reservoir created by the impoundment of the San Juan River at Navajo Dam, as authorized by the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act') (43 U.S.C. 620 et seq.).

''(21) NAVAJO NATION MUNICIPAL PIPELINE; PIPELINE.—The term 'Navajo Nation Municipal Pipeline' or 'Pipeline' means the pipeline used to convey the water of the Animas-La Plata Project of the Navajo Nation from the City of Farmington, New Mexico, to communities of the Navajo Nation located in close proximity to the San Juan River Valley in the State of New Mexico (including the City of Shiprock), as authorized by section 15(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585; 102 Stat. 2973; 114 Stat. 2763A–263).

''(22) NON-NAVAJO IRRIGATION DISTRICTS.—The term 'Non-Navajo Irrigation Districts' means—

''(A) the Hammond Conservancy District;

''(B) the Bloomfield Irrigation District; and

''(C) any other community ditch organization in the San Juan River basin in the State of New Mexico.

''(23) PARTIAL FINAL DECREE.—The term 'Partial Final Decree' means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth the rights of the Nation to use and administer waters of the San Juan River Basin in New Mexico, as set forth in Appendix 1 of the Agreement.

''(24) PROJECT PARTICIPANTS.—The term 'Project Participants' means the City, the Nation, and the Jicarilla Apache Nation.

''(25) SAN JUAN RIVER BASIN RECOVERY IMPLEMENTATION PROGRAM.—The term 'San Juan River Basin Recovery Implementation Program' means the intergovernmental program established pursuant to the cooperative agreement dated October 21, 1992 (including any amendments to the program).

''(26) SECRETARY.—The term 'Secretary' means the Secretary of the Interior, acting through the Commissioner of Reclamation or any other designee.

''(27) STREAM ADJUDICATION.—The term 'stream adjudication' means the general stream adjudication that is the subject of New Mexico v. United States, et al., No. 75–185 (11th Jud. Dist., San Juan County, New Mexico) (involving claims to waters of the San Juan River and the tributaries of that river).

''(28) SUPPLEMENTAL PARTIAL FINAL DECREE.—The term 'Supplemental Partial Final Decree' means a final and binding judgment and decree entered by a court in the stream adjudication, setting forth certain water rights of the Nation, as set forth in Appendix 2 of the Agreement.

''(29) TRUST FUND.—The term 'Trust Fund' means the Navajo Nation Water Resources Development Trust Fund established by section 10702(a) [123 Stat. 1402].

''(30) UPPER BASIN.—The term 'Upper Basin' has the same meaning given the term in Article II(f) of the Colorado River Compact.''

## SUBCHAPTER III—INSTITUTION AND CONSTRUCTION OF PROJECTS

### § 411. Surveys for, location, and construction of irrigation works generally

The Secretary of the Interior is authorized and directed to make examinations and surveys for, and to locate and construct, as herein provided, irrigation works for the storage, diversion, and development of waters, including artesian wells.

(June 17, 1902, ch. 1093, § 2, 32 Stat. 388; Aug. 7, 1946, ch. 770, § 1(7), 60 Stat. 867.)

REFERENCES IN TEXT

Herein, referred to in text, means in act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in acts Mar. 2, 1889, ch. 411, § 1, 25 Stat. 960; Oct. 2, 1888, ch. 1069, § 1, 25 Stat. 526.

AMENDMENTS

1946—Act Aug. 7, 1946, struck out provisions requiring annual reports to Congress as to results of those examinations and surveys.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 411a. Repealed. Feb. 28, 1929, ch. 374, § 2, 45 Stat. 1406

Section, act June 28, 1926, ch. 704, 44 Stat. 776, authorized employment of engineers for consultation.

### § 411a–1. Authorization of appropriations for investigations of feasibility of reclamation projects

The sum of $125,000 annually is authorized to be appropriated for cooperative and miscellaneous investigations of the feasibility of reclamation projects.

(Feb. 21, 1923, ch. 101, 42 Stat. 1281.)

### § 411b. Employment of engineers, geologists, appraisers and economists for reclamation consultation work; compensation; retired Army and Navy officers as consulting engineers

The Secretary of the Interior is authorized, in his judgment and discretion, to employ for con-

sultation purposes on important reclamation work ten consulting engineers, geologists, appraisers, and economists, at rates of compensation to be fixed by him, but not to exceed $50 per day for any engineer, geologist, appraiser, or economist so employed: *Provided*, That the total compensation paid to any engineer, geologist, appraiser, or economist during any fiscal year shall not exceed $5,000: *Provided further*, That notwithstanding the provisions of any other Act, retired officers of the Army or Navy may be employed by the Secretary of the Interior as consulting engineers in accordance with the provisions of this section.

(Feb. 28, 1929, ch. 374, § 1, 45 Stat. 1406; Apr. 22, 1940, ch. 125, 54 Stat. 148; Dec. 23, 1944, ch. 708, 58 Stat. 915; Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 652.)

AMENDMENTS

1966—Pub. L. 89–554 struck out provisions which authorized employment of retired personnel of the Department of the Interior as consultants.

1944—Act Dec. 23, 1944, inserted third proviso.

1940—Act Apr. 22, 1940, provided for employment of appraisers and increased the number to be employed from five to ten.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 412. Prerequisites to initiation of project or division of project

After December 5, 1924, no new project or new division of a project shall be approved for construction or estimates submitted therefor by the Secretary until information in detail shall be secured by him concerning the water supply, the engineering features, the cost of construction, land prices, and the probable cost of development, and he shall have made a finding in writing that it is feasible, that it is adaptable for actual settlement and farm homes, and that it will probably return the cost thereof to the United States.

(Dec. 5, 1924, ch. 4, § 4, subsec. B, 43 Stat. 702.)

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 413. Approval of project by President

After June 25, 1910, no irrigation project contemplated by the Act of June 17, 1902, shall be begun unless and until the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States.

(June 25, 1910, ch. 407, § 4, 36 Stat. 836.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of second clause of section 4 of act June 25, 1910. First clause of such section 4 is classified to section 400 of this title.

### § 414. Appropriation for projects essential

Expenditures shall not be made for carrying out the purposes of the reclamation law except out of appropriations made annually by Congress therefor, and there shall annually, in the Budget, be submitted to Congress estimates of the amount of money necessary to be expended for carrying out any or all of the purposes authorized by the reclamation law, including the extension and completion of existing projects and units thereof and the construction of new projects. The annual appropriations made hereunder by Congress for such purposes shall be paid out of the reclamation fund provided for by the reclamation law.

(Aug. 13, 1914, ch. 247, § 16, 38 Stat. 690.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 472 of this title.

CODIFICATION

Words ''there shall annually, in the Budget, be submitted to Congress'' substituted for ''the Secretary of the Interior shall annually in the regular Book of Estimates, submit to Congress'' in view of the Budget and Accounting Act, 1921, act June 10, 1921, ch. 18, 42 Stat. 20. See sections 1104 and 1105 of Title 31, Money and Finance.

### § 415. Receipts applicable to project generally

All moneys heretofore or hereafter refunded or received in connection with operations under the reclamation law, except repayments of construction and operation and maintenance charges, shall be a credit to the appropriation for the project or operation from or on account of which the collection is made and shall be available for expenditure in like manner as if said sum had been specifically appropriated for said project or operation.

(June 12, 1917, ch. 27, 40 Stat. 149.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is identified in act June 12, 1917, ch. 27, 40 Stat. 147, under the heading ''RECLAMATION SERVICE'', as act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto. Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 416. Laws applicable to withdrawn lands; restoration to entry

All lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of this Act; that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable,

and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry.

(June 17, 1902, ch. 1093, § 3, 32 Stat. 388; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

Said surveys, referred to in text, mean the surveys for contemplated irrigation works authorized by section 411 of this title.

CODIFICATION

Section is comprised of part of section 3 of act June 17, 1902. Remainder of such section 3 is classified to sections 432 and 434 of this title.

AMENDMENTS

1976—Pub. L. 94–579 struck out provisions that the Secretary of the Interior withdraw from public entry lands required for irrigation works contemplated under the Act of June 17, 1902, prior to the giving of the public notice provided for in section 419 of this title, that he restore such withdrawn lands to public entry when he deemed such lands unnecessary for the purposes of such Act, and that he withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works prior to the beginning of surveys for any contemplated irrigation works.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by such section 704(a) 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.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

## § 417. Reservation of easements in public lands for reclamation projects

Where, in the opinion of the Secretary, a right of way or easement of any kind over public land is required in connection with a project the Secretary may reserve the same to the United States by filing in the Bureau of Land Management and in the appropriate local land office copies of an instrument giving a description of the right of way or easement and notice that the same is reserved to the United States for Federal irrigation purposes under sections 371, 376, 377, 412, 417, 433, 438,[1] 462, 463,[1] 466, 473,[1] 474,[1] 478, 493, 494, 500, 501, and 526 of this title, in which event entry for such land and the patent issued therefor shall be subject to the right of way or easement so described in such instrument; and reference to each such instrument shall be made in the appropriate tract books and also in the patent.

(Dec. 5, 1924, ch. 4, § 4, subsec. P, 43 Stat. 704; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 438 of this title, referred to in text, was repealed by act Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568.

Sections 463, 473, and 474 of this title, referred to in text, were repealed by act May 25, 1926, ch. 383, § 47, 44 Stat. 650.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

## § 418. Private lands within project; agreement as to disposal of excess over farm unit

Before any contract is let or work begun for the construction of any reclamation project adopted after August 13, 1914, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at not to exceed such price as the Secretary of the Interior may designate; and if any landowner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction.

(Aug. 13, 1914, ch. 247, § 12, 38 Stat. 689.)

## § 419. Contract for irrigation project; notice as to lands irrigable, unit of entry, and construction charges

Upon the determination that any irrigation project is practicable, the Secretary of the Interior may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing the necessary funds for such portions or sections are available, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project, and the number of annual installments in which such charges shall be paid and the time when such payments shall commence: *Provided*, That in all construction work eight hours shall constitute a day's work.

(June 17, 1902, ch. 1093, § 4, 32 Stat. 389; May 10, 1956, ch. 256, 70 Stat. 151.)

CODIFICATION

Section is comprised of part of section 4 of act June 17, 1902. Remainder of such section 4 is classified to section 461 of this title.

AMENDMENTS

1956—Act May 10, 1956, substituted a period for the comma after ''work'' in proviso, and struck out ''and no Mongolian labor shall be employed thereon.''

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified, or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 420. Use of earth, timber, etc., from other public lands

In carrying out the provisions of the national irrigation law approved June 17, 1902, and in constructing works thereunder, the Secretary of the Interior is authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is authorized to permit the use of earth, stone, and timber from the national forests of the United States for the same purpose, under rules and regulations to be prescribed by him.

(Feb. 8, 1905, ch. 552, 33 Stat. 706; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

REFERENCES IN TEXT

The national irrigation law approved June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Act Mar. 4, 1907 redesignated ''forest reserves'' as ''national forests''.

### § 421. Acquisition of lands for irrigation project; eminent domain

Where, in carrying out the provisions of this Act, it becomes necessary to acquire any rights or property, the Secretary of the Interior is authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose, and it shall be the duty of the Attorney General of the United States upon every application of the Secretary of the Interior, under this Act, to cause proceedings to be commenced for condemnation within thirty days from the receipt of the application at the Department of Justice.

(June 17, 1902, ch. 1093, § 7, 32 Stat. 389.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this Title and Tables.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified, or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 421a. Construction of distribution and drainage systems by irrigation districts or public agencies

Distribution and drainage systems authorized to be constructed under the Federal reclamation laws may, in lieu of construction by the Secretary of the Interior (referred to in sections 421a to 421h of this title as the ''Secretary''), be constructed by irrigation districts or other public agencies according to plans and specifications approved by the Secretary as provided in sections 421a to 421h of this title. The drainage systems referred to in sections 421a to 421h of this title are those required for collection and removal of excess irrigation water, either on or below the surface of the ground and do not include enlargement or alteration of existing waterways for disposition or natural runoff.

(July 4, 1955, ch. 271, § 1, 69 Stat. 244; Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 804.)

AMENDMENTS

1972—Pub. L. 92–487 substituted provisions relating to construction of distribution and drainage systems, for provisions relating to construction of irrigation systems, and inserted provisions setting forth the type of drainage systems subject to coverage of sections 421a to 421h of this title.

### § 421b. Loans for construction of distribution and drainage systems; repayment contract; time period for repayment of loan; "irrigation district or other public agency" defined

To assist financially in the construction of the aforesaid local distribution and drainage systems by irrigation districts and other public agencies the Secretary is authorized, on application therefor by such irrigation districts or other public agencies, to make funds available on a loan basis from moneys appropriated for the construction of such distribution and drainage systems to any irrigation district or other public agency in an amount equal to the estimated construction cost of such system, contingent upon a finding by the Secretary that the loan can be returned to the United States in accordance with the general repayment provisions of sections 485a(d) and 485h(d) of this title and upon a showing that such district or agency already holds or can acquire all lands and interests in land (except public and other lands or interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) necessary for the construction, operation, and maintenance of the project. The Secretary shall, upon approval of a loan, including any loan for a distribution and drainage system receiving water from the San Luis unit, Central Valley project, authorized by the Act of June 3, 1960 (74 Stat. 156), enter into a repayment contract which includes such provisions as the Secretary shall deem necessary and proper to provide assurance of prompt repayment of the loan within not to exceed forty years plus a development period not to exceed ten years. The term ''irrigation district or other public agency'' shall for the purposes of sections 421a to 421h of this title mean any conservancy district, irrigation district, water users' organization, or other

organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws.

(July 4, 1955, ch. 271, § 2, 69 Stat. 245; Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 804.)

REFERENCES IN TEXT

Act of June 3, 1960, referred to in text, is Pub. L. 86–488, June 3, 1960, 74 Stat. 156, which is not classified to the Code.

AMENDMENTS

1972—Pub. L. 92–487 substituted provisions relating to financial assistance in the construction of local distribution and drainage systems, for provisions relating to financial assistance in the construction of local irrigation distribution systems, and inserted provisions relating to loans for a distribution and drainage system receiving water from the San Luis unit, Central Valley project, and provisions setting forth a specified time period for repayment of loans.

SALE OF BUREAU OF RECLAMATION LOANS

Pub. L. 100–203, title V, § 5301, Dec. 22, 1987, 101 Stat. 1330–268, provided that:

''(a) SALE.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary'), under such terms as the Secretary shall prescribe, shall sell or otherwise dispose of loans made pursuant to the Distribution System Loans Act (43 U.S.C. 421a–421d) [43 U.S.C. 421a to 421h], the Small Reclamation Projects Act [of 1956] (43 U.S.C. 422a–422*l*) [43 U.S.C. 422a et seq.], and the Rehabilitation and Betterment Act (43 U.S.C. 504–505) [43 U.S.C. 504 and note] in such amounts as to realize net proceeds to the Federal Government of not less than $130,000,000 in the fiscal year ending September 30, 1988. In the conduct of such sales, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the borrowers under the contracts executed to provide for repayment of such loans.

''(b) SAVINGS PROVISIONS.—Nothing in this section, including the prepayment or other disposition of any loan or loans, shall—

''(1) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the application of the provisions of Federal Reclamation law (Act of June 17, 1902 [32 Stat. 388, see Short Title note under section 371 of this title], and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982 [43 U.S.C. 390aa et seq.]), including acreage limitations, to the extent such provisions would apply absent such prepayment, or

''(2) authorize the transfer of title to any federally owned facilities funded by the loans specified in subsection (a) of this section without a specific Act of Congress.

''(c) FEES AND EXPENSES OF PROGRAM.—Proceeds from the conduct of the program authorized by this section shall be first used to pay the fees and expenses of such program and the net proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.

''(d) TERMINATION.—The authority granted by this section to sell or otherwise dispose of loans shall terminate on December 31, 1988.''

## § 421c. Conditions of loan for distribution and drainage systems; reconveyance by Secretary of lands, interests in lands, and distribution works heretofore conveyed to the United States; conditions of reconveyance; rights of way

The Secretary shall require, as conditions to any such loan, that the borrower contribute in money or materials, labor, lands, or interests in land, computed at their reasonable value, a portion not in excess of 10 per centum, of the construction cost of the distribution and drainage system (including all costs of acquiring lands and interests in land), that the plans for the system be in accord with sound engineering practices and be such as will achieve the purposes for which the system was authorized, and that the borrower agree to account in full in regard to all disbursements of borrowed funds and to return at once for application toward amortization of the loan all funds which are not expended in the construction of the distribution and drainage system. Every organization contracting for repayment of a loan under sections 421a to 421h of this title shall operate and maintain its distribution and drainage works in conformity with reasonable contractual requirements determined to be appropriate for the protection of the United States. The Secretary is hereby authorized to reconvey to borrowers all lands or interests in lands and distribution works transferred to the United States under the provisions of sections 421a to 421h of this title: *Provided*, That any reconveyance shall be upon the condition that the repayment contract of the borrower be amended to include such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan. The head of any department or agency of the Government within whose administrative jurisdiction are lands owned by the United States the use of which is reasonably necessary for the construction, operation, and maintenance of distribution and drainage works under sections 421a to 421h of this title may grant to a borrower or prospective borrower under sections 421a to 421h of this title revocable permission for the use thereof in like manner as under sections 79 and 524 of title 16, sections 323 to 328 of title 25, section 8124 of title 38, or sections 931a to 931d, 946 to 950, 956, and 959 of this title, or any other similar Act which is applicable to the lands involved: *Provided*, That no such permission shall be granted in the case of lands being administered for national park, national monument, or wildlife purposes.

(July 4, 1955, ch. 271, § 3, 69 Stat. 245; May 14, 1956, ch. 268, 70 Stat. 155; Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 804; Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239.)

CODIFICATION

''Section 8124 of title 38'' substituted in text (see 1991 Amendment note below) for ''section 5024 of title 38'', which previously had been substituted for ''section 5014 of title 38'' as the probable intent of Congress in view of the renumbering of section 5014 of title 38 as section 5024 by Pub. L. 96–22, title III, § 301(b)(1), June 13, 1979, 93 Stat. 61. Previously, ''section 5014 of title 38'' had been substituted for ''section 11i of title 38'' on authority of Pub. L. 85–857, § 5(a), Sept. 2, 1958, 72 Stat. 1281, the first section of which enacted Title 38, Veterans' Benefits.

AMENDMENTS

1991—Pub. L. 102–40 substituted ''section 8124 of title 38'' for ''section 5024 of title 38''. See Codification note above.

1972—Pub. L. 92–487 inserted provision subjecting drainage systems to the requirements of this section,

substituted provisions authorizing the Secretary to reconvey to borrowers all land or interests in land and distribution works transferred to the United States under the provisions of sections 421a to 421h of this title, with the proviso relating to the amendment of the repayment contract, for provisions requiring borrowers, prior to the consummation of any loan, to transfer to the United States any lands or interests in lands presently held or acquired in the future which the Secretary finds necessary for the construction, operation, or maintenance of distribution systems, with title to all such lands, etc., subject to retransfer to the borrower by the Secretary upon repayment of the loan, to remain in the United States, and struck out provisions which restricted applicability of provisions to provisions relating to Federal reclamation laws.

1956—Act May 14, 1956, provided that the Secretary, as conditions to loan, require borrower to account for disbursements of borrowed funds and return for application toward amortization of the loan all funds not expended in the construction of the distribution system, required, prior to the consummation of any loan, the transfer to the United States of titles to lands or interests in lands held by the borrower, and that titles to such lands, interests, and distribution works remain in United States until repayment, and provided for issuance of revocable permits for the use of lands owned by United States, in lieu of the formerly authorized actual conveyance to the districts of the rights-of-way.

### § 421d. Effect on existing laws

Except as otherwise provided in sections 421a to 421h of this title, the provisions of the Federal reclamation laws, and Acts amendatory thereto, are continued in full force and effect.

(July 4, 1955, ch. 271, § 4, 69 Stat. 245; Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 805.)

AMENDMENTS

1972—Pub. L. 92–487 reenacted section without change.

### § 421e. Municipal and industrial water supply delivery and distribution; allocation of loan funds; loan repayment contract requirements; rate of interest

Unless otherwise provided in the Act authorizing construction of the project, the delivery and distribution of municipal and industrial water supplies shall be deemed to be an authorized project purpose under sections 421a to 421h of this title, and where appropriate, an allocation of loan funds acceptable to the Secretary shall be made between irrigation and municipal and industrial purposes. Loan repayment contracts shall require that the borrower pay interest on that portion of the unamortized loan obligation (including interest during construction) allocated in each year to municipal and industrial purposes at the rate provided in the Act authorizing the project, or absent such an authorized rate, at a rate determined by the Secretary of the Treasury as of the beginning of the fiscal year in which the contract, or contract amendment entered into pursuant to section 421f of this title, is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum.

(July 4, 1955, ch. 271, § 5, as added Pub. L. 92–487, Oct. 3, 1972, 86 Stat. 805.)

### § 421f. Existing loan contracts; negotiation by Secretary of amendments

The Secretary is hereby authorized to negotiate amendments to existing water service and irrigation distribution system loan contracts to conform said contracts to the provisions of sections 421a to 421h of this title.

(July 4, 1955, ch. 271, § 6, as added Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 805.)

### § 421g. Existing rights unaffected

Nothing in sections 421a to 421h of this title shall be construed to repeal or limit the procedural and substantive requirements of sections 372 and 383 of this title.

(July 4, 1955, ch. 271, § 7, as added Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 806.)

### § 421h. Procedural and substantive requirements applicable to works financed by loans pursuant to sections 421a to 421h of this title

Works financed by loans made under sections 421a to 421h of this title shall be subject to all procedural and substantive requirements of the Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], and the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(July 4, 1955, ch. 271, § 8, as added Pub. L. 92–487, Oct. 13, 1972, 86 Stat. 806.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in text, is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set under section 661 of Title 16 and Tables.

The Federal Water Pollution Control Act, as amended, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The National Environmental Policy Act of 1969, referred to in text, 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.

### § 422. Construction of dams across Yellowstone River

Where, in carrying out projects under the provisions of the national reclamation Act it shall be necessary to construct dams in or across the Yellowstone River in the State of Montana, the Secretary of the Interior is hereby authorized to construct and use and operate the same in the manner and for the purposes contemplated by said reclamation Act.

(Mar. 3, 1905, ch. 1476, 33 Stat. 1045.)

REFERENCES IN TEXT

The national reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388,

as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

## SUBCHAPTER IV—CONSTRUCTION OF SMALL PROJECTS

### § 422a. Declaration of purpose

The purpose of this subchapter is to encourage State and local participation in the development of projects under the Federal reclamation laws, with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control, and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations.

(Aug. 6, 1956, ch. 972, § 1, 70 Stat. 1044; Pub. L. 99–546, title III, § 302, Oct. 27, 1986, 100 Stat. 3053.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 422b of this title.

AMENDMENTS

1986—Pub. L. 99–546 inserted ", with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control," after "laws".

EFFECTIVE DATE OF 1986 AMENDMENT

Section 310 of title III of Pub. L. 99–546 provided that: "The provisions of Sections 303 and 308 of this title [amending sections 422c and 422h of this title] shall take effect upon enactment of this title [Oct. 27, 1986]. The provisions of sections 304(a) and 305 of this title [amending section 422d of this title] shall be applicable to all proposals for which final applications are received by the Secretary after January 1, 1986. The provisions of Sections 302, 304(b), 306, and 307 [amending this section and sections 422d and 422e of this title] shall be applicable to all proposals for which draft applications are received by the Secretary after Auguest [sic] 15, 1986."

SEPARABILITY

Section 12 of act Aug. 6, 1956, provided that: "If any provisions of this Act [enacting this subchapter] or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby."

### § 422b. Definitions

As used in this subchapter—

(a) The term "construction" shall include rehabilitation and betterment.

(b) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(c) The term "organization" shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users' association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.

(d) The term "project" shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clause (i) and (ii) or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clause (i), (ii), (iii), (iv), or (v) does not exceed the maximum allowable estimated total project cost as determined by subsection (f) hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this subchapter may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project. Nothing contained in this subchapter shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

(e) The term "Secretary" shall mean the Secretary of the Interior.

(f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with $15,000,000 as the January 1971 base.

(Aug. 6, 1956, ch. 972, § 2, 70 Stat. 1044; Pub. L. 89–553, § 1(1), Sept. 2, 1966, 80 Stat. 376; Pub. L. 92–167, § 1(1), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(a), (b), Dec. 27, 1975, 89 Stat. 1049.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in par. (b), is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–181, § 1(a), substituted provisions limiting the estimated cost of the project described in cls. (i), (ii), (iii), (iv), and (v) to the maximum allowable estimated total project cost as determined by subsection (f) of this section, for provisions limiting the estimated cost of such projects to $15,000,000, and inserted proviso relating to a project described in cl. (i), (ii), or (iii).

Subsec. (f). Pub. L. 94–181, § 1(b), added subsec. (f).

1971—Subsec. (d). Pub. L. 92–167 redefined the size and character of projects which are eligible for approval under the program, increasing money limitation from $1,000,000 to $15,000,000 and making projects eligible, without being only for irrigation, for single purpose irrigation, single purpose drainage, multiple purpose, a distinct unit of the foregoing, or rehabilitation of any of the foregoing.

1966—Subsec. (d). Pub. L. 89–553 raised from $5,000,000 to $6,500,000 the maximum amount for a loan or grant for a particular project.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Section 2 of Pub. L. 89–553 provided that: ''Nothing contained in this Act [amending this section and sections 422d, 422e, 422h, and 422j of this title] shall be applicable to or affect in any way the terms on which any loan or grant has been made prior to the effective date of this Act [Sept. 2, 1966].''

### § 422c. Proposals; submission; payment for cost of examination

Any organization desiring to avail itself of the benefits provided in this subchapter shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of $5,000 to defray, in part, the cost of examining the proposal.

(Aug. 6, 1956, ch. 972, § 3, 70 Stat. 1044; Pub. L. 99–546, title III, § 303, Oct. 27, 1986, 100 Stat. 3053.)

AMENDMENTS

1986—Pub. L. 99–546 substituted ''$5,000'' for ''$1,000''.

### § 422d. Contents of proposals

#### (a) Plans and estimates; review by States; allocation of capital costs

Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in section 701–1(c) of title 33, except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

#### (b) Lands and water rights; ownership; financing

(1) Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant of Federal funds such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in section 422e(b)(2) of this title as the Secretary shall have advised is proper in the circumstances.

(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided*, That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further*, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the $5,000 fee described in section 422c of this title. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 422e(b) of this title.

#### (c) Transmittal of findings and approval to Congress; certification of soil survey; reservation of land

At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this subchapter, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. Each project proposal transmitted by the Secretary to the Congress shall include a certification by the Secretary that an adequate soil survey and land classification has been made, or that the successful irrigability of those lands and their susceptibility to sustained production of agricultural crops by means of irrigation has been demonstrated in practice. Such proposal shall also include an investigation of soil characteristics which might result in toxic or hazardous irrigation return flows. The Secretary, at the time of submitting the project proposal to Congress or at the time of his determination that the requested project constitutes a reasonable risk under the provisions of this subchapter, may reserve from use or disposition inimical to the project any lands and interests in land owned by the United States which are within his administrative jurisdiction and subject to disposition by him and which are required for use by the project. Any such reservation shall expire at the end of two years unless the contract provided for in section 422e of this title shall have been executed.

**(d) Amount of loan and/or grant; increase by Secretary**

At the time of his submitting the project proposal to the Congress, or at any subsequent time prior to completion of construction of the project, including projects heretofore approved, the Secretary may increase the amount of the requested loan and/or grant to an amount within the maximum allowed by section 422e(a) of this title, as amended by Pub. L. 94–181, to compensate for increases in construction costs due to price escalation.

**(e) Appropriation; nonapplicability**

No appropriation shall be made for financial participation in any such project prior to sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date on which the Secretary's findings and approval are submitted to the Congress and then only if, within said sixty days, neither the Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate disapproves the project proposal by committee resolution. The provisions of this subsection (e) shall not be applicable to proposals made under section 422f of this title.

**(f) Consideration of financial feasibility, emergency, or urgent need; jurisdiction and control of project works and facilities**

The Secretary shall give due consideration to financial feasibility, emergency, or urgent need for the project. All project works and facilities constructed under this subchapter shall remain under the jurisdiction and control of the local contracting organization subject to the terms of the repayment contract.

(Aug. 6, 1956, ch. 972, § 4, 70 Stat. 1044; Pub. L. 85–47, § 1(a), (b), June 5, 1957, 71 Stat. 48; Pub. L. 89–553, § 1(2), (3), Sept. 2, 1966, 80 Stat. 376; Pub. L. 92–167, § 1(2), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(c)–(e), Dec. 27, 1975, 89 Stat. 1049, 1050; Pub. L. 99–546, title III, §§ 304, 305, Oct. 27, 1986, 100 Stat. 3053, 3054; Pub. L. 103–437, § 16(b), Nov. 2, 1994, 108 Stat. 4594.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (a), are defined in section 422b of this title.

For the amendment of section 422e(a) of this title by Pub. L. 94–181, referred to in subsec. (d), see 1975 Amendment note set out under section 422e of this title.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–437 substituted "Committee on Natural Resources of the House of Representatives nor the Committee on Energy and Natural Resources of the Senate" for "House nor the Senate Interior and Insular Affairs Committee".

1986—Subsec. (b)(1). Pub. L. 99–546, § 304(a), designated existing provisions as par. (1) and substituted "grant of Federal funds" for "grant under this subchapter".

Subsec. (b)(2). Pub. L. 99–546, § 304(b), added par. (2).

Subsec. (c). Pub. L. 99–546, § 305, inserted provisions which required certification by Secretary relating to soil survey, land classification, or successful irrigability, and investigation of soil for toxic or hazardous irrigation return flows.

1975—Subsec. (d). Pub. L. 94–181, § 1(c), (d), added subsec. (d). Former subsec. (d) redesignated (e).

Subsecs. (e), (f). Pub. L. 94–181, § 1(d), (e), redesignated former subsec. (d) as (e), substituted "(e)" for "(d)", and redesignated former subsec. (e) as (f).

1971—Subsec. (e). Pub. L. 92–167 substituted in first sentence "project" for "project, whether the proposal involves furnishing supplemental irrigation water for an existing irrigation project, whether the proposal involves rehabilitation of existing irrigation project works, and whether the proposed project is primarily for irrigation".

1966—Subsec. (a). Pub. L. 89–553, § 1(2), extended project costs to include the cost of means and measures to prevent loss of and damage to fish and wildlife resources and authorized allocation of such costs as may be appropriate among project functions.

Subsec. (b). Pub. L. 89–553, § 1(3), substituted "cost of the project" for "cost of construction" in provision requiring that the organization be ready, able, and willing to finance by other than loan or grant whatever costs the Secretary advises, inserted reference to section 422e(b)(2) of this title as an exception to the costs which the organization must be able to finance other than by loan or grant, and struck out proviso that the contribution by the applicant organization shall not be required in excess of 25 per centum of the costs of the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects.

1957—Subsec. (c). Pub. L. 85–47, § 1(a), changed language generally, and struck out provisions which authorized Secretary to negotiate a contract as provided in section 422e of this title, with the provision that no such contract be executed by him prior to sixty days from date project proposal was submitted to both branches of Congress for committee consideration, and then only if neither committee disapproved proposal within the period, but that if both committees approved he could execute contract, and that if either committee disapproved, he could not proceed unless Congress approved.

Subsecs. (d), (e). Pub. L. 85–47, § 1(b), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 304(a) and 305 of Pub. L. 99–546 applicable to all proposals for which final applications are received by Secretary after Jan. 1, 1986, and amendment by section 304(b) of Pub. L. 99–546 applicable to all proposals for which draft applications are received by Secretary after Aug. 15, 1986, see section 310 of Pub. L. 99–546, set out as a note under section 422a of this title.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment by Pub. L. 89–553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89–553, Sept. 2, 1966, see section 2 of Pub. L. 89–553, set out as a note under section 422b of this title.

## § 422e. Contract requirements

Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which shall set out, among other things—

(a) the maximum amount of any loan to be made to the organization and the time and method of making the same available to the organization. Said loan shall not exceed the lesser of (1) two-thirds of the maximum allowable estimated total project cost as determined by section 422b(f) of this title, or (2) the estimated total cost of the project minus the contribution of the local organization as pro-

vided in section 422d(b) of this title and the amount of the grant approved;

(b) the maximum amount of any grant to be accorded the organization. Said grant shall not exceed the sum of the following: (1) the costs of investigations, surveys, and engineering and other services necessary to the preparation of proposals and plans for the project allocable to fish and wildlife enhancement or public recreation; (2) one-half the costs of acquiring lands or interests therein to serve exclusively the purposes of fish and wildlife enhancement or public recreation, plus the costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation; (3) one-half the costs of basic public outdoor recreation facilities or facilities serving fish and wildlife enhancement purposes exclusively; (4) one-half the costs of construction of joint use facilities properly allocable to fish and wildlife enhancement or public recreation; (5) that portion of the estimated cost of constructing the project which, if it were constructed as a Federal reclamation project, would be properly allocable to functions, other than recreation and fish and wildlife enhancement and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.[1]

(c) a plan of repayment by the organization of (1) the sums lent to it in not more than forty years from the date when the principal benefits of the project first become available; (2) interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the average market yields on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest one-eighth of 1 percent on the unamortized balance of any portion of the loan—

(A) which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient or by a limited recipient, as such terms are defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres; or,

(B) which is allocated to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation except that portion of such allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest.[1]

(d) provision for operation of the project, if a grant predicated upon its performance of nonreimbursable functions is made, in accordance with regulations with respect thereto prescribed by the head of the Federal department or agency primarily concerned with those functions and, in the event of noncompliance with such regulations, for operation by the United States or for repayment to the United States of the amount of any such grant;

(e) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest as aforesaid. The liability of the United States under any contract entered into pursuant to this subchapter shall be contingent upon the availability of appropriations to carry out the same, and every such contract shall so recite; and

(f) provisions conforming to the preference requirements contained in the proviso to section 485h(c) of this title, if the project produces electric power for sale.

(Aug. 6, 1956, ch. 972, § 5, 70 Stat. 1046; Pub. L. 85–47, § 1(c), June 5, 1957, 71 Stat. 49; Pub. L. 89–553, § 1(4), Sept. 2, 1966, 80 Stat. 376; Pub. L. 92–167, § 1(3)–(6), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(f), Dec. 27, 1975, 89 Stat. 1050; Pub. L. 96–336, § 8(b), Sept. 4, 1980, 94 Stat. 1065; Pub. L. 97–293, title II, § 223, Oct. 12, 1982, 96 Stat. 1272; Pub. L. 99–546, title III, §§ 306, 307, Oct. 27, 1986, 100 Stat. 3054.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–546, § 306, struck out ''and'' before ''(5)'' and substituted ''and flood control, which are nonreimbursable under general provisions of law applicable to such projects; and (6) that portion of the estimated cost of constructing the project which is allocable to flood control and which would be nonreimbursable under general provisions of law applicable to projects constructed by the Secretary of the Army.'' for '', which are nonreimbursable under general provisions of law applicable to such projects: *Provided*, That the cost of constructing the project as used in this subsection shall be exclusive of the cost of lands and interests in land;''.

Subsec. (c)(1). Pub. L. 99–546, § 307(a), substituted ''forty'' for ''fifty''.

Subsec. (c)(2). Pub. L. 99–546, § 307(b), amended cl. (2) generally. Prior to amendment, cl. (2) read as follows: ''interest, as determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the contract is executed, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue, and by adjusting such average rate to the nearest one-eighth of 1 per centum, on that portion of the loan which is attributable to furnishing irrigation benefits in each particular year to land held in private ownership by a qualified recipient, as such term is defined in section 390bb of this title, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres; and''.

Subsec. (c)(3). Pub. L. 99–546, § 307(c), struck out cl. (3) which read as follows: ''in the case of any project involving an allocation to domestic, industrial, or municipal water supply, commercial power, fish and wildlife enhancement, or public recreation, interest on the unamortized balance of an appropriate portion of the loan at a rate as determined in (2) above; Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;''.

1982—Subsec. (c)(2). Pub. L. 97–293 substituted ''by a qualified recipient, as such term is defined in section

[1] So in original. The period probably should be a semicolon.

390bb of this title, in excess of nine hundred and sixty irrigable acres, or by a limited recipient, as such term is defined in section 390bb of this title, in excess of three hundred and twenty irrigable acres'' for ''by any one owner in excess of one hundred and sixty irrigable acres''.

1980—Subsec. (c). Pub. L. 96–336 inserted ''Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;'' at end of subsec. (c).

1975—Subsec. (a)(1). Pub. L. 94–181 substituted ''two-thirds of the maximum allowable estimated total project cost as determined by section 422b(f) of this title,'' for ''$10,000,000''.

1971—Subsec. (a)(1). Pub. L. 92–167, § 1(3), substituted ''$10,000,000'' for ''$6,500,000''.

Subsec. (b)(2). Pub. L. 92–167, § 1(4), substituted provision for inclusion of one-half of land acquisition costs to serve exclusively the purposes of fish and wildlife enhancement and public recreation, for prior inclusion of such costs for a reservoir or other area to be operated for fish and wildlife enhancement and public recreation purposes and provided for inclusion of costs of acquiring joint use lands and interests therein properly allocable to fish and wildlife enhancement and public recreation.

Subsec. (b)(5). Pub. L. 92–167, § 1(5), inserted proviso excluding from cost of constructing projects, as used in this subsection, cost of lands and interests in land.

Subsec. (c)(3). Pub. L. 92–167, § 1(6), required reimbursable fish and wildlife and recreation costs to be repaid with interest at rate determined by formula set forth in subsec. (c)(2) of this section.

1966—Pub. L. 89–553 substituted the lesser of $6,500,000 or the estimated total cost of the project minus the contribution of the local organization as provided in section 422d(b) of this title and the amount of the grant for the portion of the estimated cost of constructing the project which, if it were being constructed as a Federal reclamation project, would be properly allocable to reimbursable functions under general provisions of law applicable to such projects as the maximum amount of the loan, struck out the time and method of paying a grant to an organization from the list of contract terms, added factors involving fish and wildlife enhancement and public recreation to the factors adding up to the figure comprising the maximum allowable grant, and altered the requirements of the interest term by substituting the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from date of issue for the estimate of the average annual yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May preceding the fiscal year in which the loan is made, on all outstanding marketable obligations of the United States having a maturity date of fifteen or more years from May 1 of the year.

1957—Pub. L. 85–47 substituted ''Upon approval of any project proposal by the Secretary under the provisions of section 422d of this title, he may negotiate a contract which'' for ''Any contract authorized to be negotiated under the provisions of subsection (c) of section 422d of this title''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–546 applicable to all proposals for which draft applications are received by Secretary after Aug. 15, 1986, see section 310 of Pub. L. 99–546, set out as a note under section 422a of this title.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Amendment by Pub. L. 89–553 not to be applicable to or affect in any way the terms on which any loan or grant was made prior to the effective date of Pub. L. 89–553, Sept. 2, 1966, see section 2 of Pub. L. 89–553, set out as a note under section 422b of this title.

### § 422f. Proposals for projects previously authorized; waiver of requirements; approval; negotiation of contract

Any proposal with respect to the construction of a project which has theretofore been authorized for construction under the Federal reclamation laws shall be made in like manner as a proposal under section 422d of this title, but the Secretary may waive such requirements of subsections (a) and (b) of section 422d of this title as he finds to be duplicative of, or rendered unnecessary or impossible by, action already taken by the United States. Upon approval of any such proposal by the Secretary he may negotiate and execute a contract which conforms, as nearly as may be, to the provisions of section 422e of this title.

(Aug. 6, 1956, ch. 972, § 6, 70 Stat. 1046.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 422b of this title.

### § 422g. Information from Federal agencies; costs

Upon request of an organization which has made or intends to make a proposal under this subchapter, the head of any Federal department or agency may make available to the organization any existing engineering, economic, or hydrologic information and printed material that it may have and that will be useful in connection with the planning, design, construction, or operation and maintenance of the project concerned. The reasonable cost of any plans, specifications, and other unpublished material furnished by the Secretary pursuant to this section and the cost of making and administering any loan under this subchapter shall, to the extent that they would not be nonreimbursable in the case of a project constructed under the Federal reclamation laws, be treated as a loan and covered in the provisions of the contract entered into under section 422e of this title unless they are otherwise paid for by the organization.

(Aug. 6, 1956, ch. 972, § 7, 70 Stat. 1047.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 422b of this title.

### § 422h. Planning and construction; transfer of funds

The planning and construction of projects undertaken pursuant to this subchapter shall be subject to all procedural requirements and other provisions of the Fish and Wildlife Coordination Act (48 Stat. 401), as amended (16 U.S.C. 661 et seq.). The Secretary shall transfer to the Fish and Wildlife Service or to the National Marine Fisheries Service, out of appropriations or other funds made available under this subchapter, such funds as may be necessary to conduct the investigations required to carry out the purposes of this section.

(Aug. 6, 1956, ch. 972, § 8, 70 Stat. 1047; Pub. L. 89–553, § 1(5), Sept. 2, 1966, 80 Stat. 377; Pub. L. 99–546, title III, § 308, Oct. 27, 1986, 100 Stat. 3055.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act (48 U.S.C. 401), as amended, referred to in text, is act Mar. 10, 1934,

ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 16 and Tables.

AMENDMENTS

1986—Pub. L. 99–546 inserted provisions which related to transfer of funds for conduct of investigations to Fish and Wildlife Service or to National Marine Fisheries Service.

1966—Pub. L. 89–553 substituted ''the Fish and Wildlife Coordination Act, as amended'' for ''the Act of Aug. 14, 1946 (60 Stat. 1080)''.

### § 422i. Rules and regulations

The Secretary is authorized to perform any and all acts and to make such rules and regulations as may be necessary or proper in carrying out the provisions of this subchapter.

(Aug. 6, 1956, ch. 972, § 9, 70 Stat. 1047.)

### § 422j. Appropriations; notice to Congress of receipt of proposal; funds to initiate proposal; availability of appropriations; reimbursement; limitations on expenditures in any single State; waiver

There are authorized to be appropriated, such sums as may be necessary, but not to exceed $600,000,000, to carry out the provisions of this subchapter and, effective October 1, 1986, not to exceed an additional $600,000,000: *Provided*, That the Secretary shall advise the Congress promptly on the receipt of each proposal referred to in section 422c of this title, and no contract shall become effective until appropriated funds are available to initiate the specific proposal covered by each contract. All such appropriations shall remain available until expended and shall, insofar as they are used to finance loans made under this subchapter, be reimbursable in the manner hereinabove provided. Not more than 20 percent of the total amount of additional funds authorized to be appropriated effective October 1, 1986, for loans and grants pursuant to this subchapter shall be for projects in any single State: *Provided*, That beginning five years after October 27, 1986, the Secretary is authorized to waive the 20 percent limitation for loans and grants which meet the purposes set forth in section 422a of this title: *Provided further*, That the decision of the Secretary to waive the limitation shall be submitted to the Congress together with the project proposal pursuant to section 422d(c) of this title and shall become effective only if the Congress has not, within 60 legislative days, passed a joint resolution of disapproval for such a waiver.

(Aug. 6, 1956, ch. 972, § 10, 70 Stat. 1047; Pub. L. 89–553, § 1(6), Sept. 2, 1966, 80 Stat. 377; Pub. L. 92–167, § 1(7), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(g), Dec. 27, 1975, 89 Stat. 1050; Pub. L. 96–336, § 8(a), Sept. 4, 1980, 94 Stat. 1065; Pub. L. 99–546, title III, § 309, Oct. 27, 1986, 100 Stat. 3055.)

CODIFICATION

''October 27, 1986,'' substituted in text for ''the date of enactment of this Act'', meaning the date of enactment of Pub. L. 99–546, which amended this section, rather than August 6, 1956, the date of enactment of this section, as the probable intent of Congress.

AMENDMENTS

1986—Pub. L. 99–546 inserted ''and effective October 1, 1986, not to exceed an additional $600,000,000'' and inserted provisions at end limiting allocation for projects in any single State to 20 percent of additional funds authorized to be appropriated effective Oct. 1, 1986, authorizing waiver of that limitation, and requiring submission of waiver decision to Congress.

1980—Pub. L. 96–336 substituted ''$600,000,000'' for ''$400,000,000''.

1975—Pub. L. 94–181 substituted ''$400,000,000'' for ''$300,000,000''.

1971—Pub. L. 92–167 substituted ''$300,000,000'' for ''$200,000,000''.

1966—Pub. L. 89–553 substituted ''$200,000,000'' for ''$100,000,000''.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 8(a) of Pub. L. 96–336 provided that the amendment made by such section 8(a) is effective Oct. 1, 1980.

### § 422k. Supplement to Federal reclamation laws; short title

This subchapter shall be a supplement to the Federal reclamation laws and may be cited as the Small Reclamation Projects Act of 1956.

(Aug. 6, 1956, ch. 972, § 11, 70 Stat. 1047.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 422b of this title.

### § 422k–1. Loan contracts for deferment of repayment installments; amendment or supplementation

A loan contract negotiated and executed pursuant to this subchapter may be amended or supplemented for the purpose of deferring repayment installments in accordance with the provisions of section 485b–1(b) of this title.

(Aug. 6, 1956, ch. 972, § 13, as added Pub. L. 92–167, § 1(8), Nov. 24, 1971, 85 Stat. 488.)

### § 422*l*. Application of this subchapter to Hawaii

This subchapter as heretofore and hereafter amended, shall apply to the State of Hawaii.

(Pub. L. 86–624, § 31, July 12, 1960, 74 Stat. 421.)

CODIFICATION

Section was enacted as a part of the Hawaii Omnibus Act, and not as a part of the Small Reclamation Projects Act of 1956 which comprises this subchapter.

## SUBCHAPTER V—ADMINISTRATION OF EXISTING PROJECTS

### § 423. Permanently unproductive lands; exclusion from project; disposition of water right

All lands found by the classification made under the supervision of the Board of Survey and Adjustments (House Document 201, 69th Congress, 1st Session, checked and modified as outlined in General Recommendations numbered 2 and 4, Page 60 of said document), to be permanently unproductive shall be excluded from the project and no water shall be delivered to them after the date of such exclusion unless and until they are restored to the project. Except as herein otherwise provided, the water right formerly appurtenant to such permanently unproductive

lands shall be disposed of by the United States under the reclamation law: *Provided*, That the water users on the projects shall have a preference right to the use of the water: *And provided further*, That any surplus water temporarily available may be furnished upon a rental basis for use on lands excluded from the project under this section, on terms and conditions to be approved by the Secretary of the Interior.

(May 25, 1926, ch. 383, §§ 40, 41, 44 Stat. 647.)

SECTIONS 423 TO 423g AND 610 UNAFFECTED BY SECTIONS 451 TO 451k OF THIS TITLE

Section 10 of act Aug. 13, 1953, ch. 428, 67 Stat. 568, provided in part that: ''Nothing contained in this Act [enacting sections 451 to 451k of this title] shall be held to repeal, supersede, or supplement the provisions for exchange and matters related thereto contained in the Act of May 25, 1926 (44 Stat. 636), as amended and supplemented [sections 423 to 423g and 610 of this title].''

### § 423a. Construction charges on permanently unproductive lands already paid; disposition

The construction charges prior to May 25, 1926, paid on permanently unproductive lands excluded from the project shall be applied as a credit on charges due or to become due on any remaining irrigable land covered by the same water-right contract or land taken in exchange as provided in section 423c of this title. If the charges so paid exceed the amount of all water-right charges due and unpaid, plus the construction charges not yet due, the balance shall be paid in cash to the holder of the water-right contract covering the land so excluded or to the irrigation district affected; which in turn shall be charged with the responsibility of making suitable adjustment with the landowners involved. Should all the irrigable lands of a water-right applicant be excluded from the project as permanently unproductive, and no exchange be made as provided in said section, the total construction charges paid before May 25, 1926, less any accrued charges on account of operation and maintenance, shall be refunded in cash, the water-right contract shall be canceled, and all liens on account of water-right charges shall be released.

(May 25, 1926, ch. 383, § 42, 44 Stat. 647.)

### § 423b. Suspension of payment of construction charges against areas temporarily unproductive

The payment of all construction charges against said areas temporarily unproductive shall remain suspended until the Secretary of the Interior shall declare them to be possessed of sufficient productive power properly to be placed in a paying class, whereupon payment of construction charges against such areas shall be resumed or shall begin, as the case may be. Any payments made on such areas shall be credited to the unpaid balance of the construction charge on the productive area of each unit. Such credit shall be applied on and after April 23, 1930, which shall not be construed to require revision of accounts adjusted before April 23, 1930, under the provisions of this section as originally enacted. While said lands so classified as temporarily unproductive and the construction charges against them are suspended, water for irrigation purposes may be furnished upon payment of the usual operation and maintenance charges, or such other charges as may be fixed by the Secretary of the Interior the advance payment of which may be required, in the discretion of the said Secretary. Should said lands temporarily classed as unproductive, or any of them, in the future be found by the Secretary of the Interior to be permanently unproductive, the charges against them shall be charged off as a permanent loss to the reclamation fund and they shall thereupon be treated in the same manner as other permanently unproductive lands as provided in sections 423 to 423g and 610 of this title except that no refund shall be made of the construction charges paid on such unproductive areas and applied as a credit on productive areas as herein authorized.

(May 25, 1926, ch. 383, § 43, 44 Stat. 647; Apr. 23, 1930, ch. 205, 46 Stat. 249.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''this Act'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title was omitted from the Code. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1930—Act Apr. 23, 1930, provided that the credit shall be applied on or after April 23, 1930, and was not to be construed as requiring revision of accounts adjusted before such date, and that no refund shall be made of the charges on unproductive areas and applied as a credit on productive areas.

### § 423c. Exchange of unpatented entries; entries, farms or private lands, eliminated from project; rights not assignable; rights of lienholders; preference to ex-service men

Settlers who have unpatented entries under any of the public land laws embracing lands which have been eliminated from the project, or whose entries under water rights have been so reduced that the remaining area is insufficient to support a family, shall be entitled to exchange their entries for other public lands within the same project or any other existing Federal reclamation project, with credit under the homestead laws for residence, improvement, and cultivation made or performed by them upon their original entries and with credit upon the new entry for any construction charges paid upon or in connection with the original entry: *Provided*, That when satisfactory final proof has been made on the original entry it shall not be necessary to submit final proof upon the lieu entry. Any entryman whose entry or farm unit is reduced by the elimination of permanently unproductive land shall be entitled to enter an equal amount of available public land on the same project contiguous to or in the vicinity of the farm unit reduced by elimination, with all credits in this section hereinbefore specified in lieu of the lands eliminated. Owners of private lands so eliminated from the project may, subject to the approval of the Secretary of the Interior, and free from all encumbrances, relinquish and convey to the United States lands so owned and held by them, not exceeding an area of one

hundred and sixty acres, and select an equal area of vacant public land within the irrigable area of the same or any other Federal reclamation project, with credit upon the construction costs of the lands selected to the extent and in the amount paid upon or in connection with their relinquished lands, and the Secretary of the Interior is authorized to revise and consolidate farm units, so far as this may be made necessary or advisable, with a view to carrying out the provisions of this section: *Provided further*, That the rights extended under this section shall not be assignable: *And provided further*, That in administering the provisions of this section and section 423a of this title, the Secretary of the Interior shall take into consideration the rights and interests of lien holders, as to him may seem just and equitable: *Provided further*, That where two entrymen apply for the same farm unit under the exchange provisions of this section, only one whom[1] is an ex-service man, as defined by section 438[2] of this title, the ex-service man shall have a preference in making such exchange.

(May 25, 1926, ch. 383, § 44, 44 Stat. 648.)

REFERENCES IN TEXT

Section 438 of this title, referred to in text, was repealed by act Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568. For provisions giving preference to ex-servicemen, see section 451g of this title.

### § 423d. Amendment of existing water right contracts by Secretary of the Interior

The Secretary of the Interior is authorized, in his discretion, to amend any existing water-right contract to the extent necessary to carry out the provisions of sections 423 to 423g and 610 of this title, upon request of the holder of such contract. The Secretary of the Interior, as a condition precedent to the amendment of any existing water-right contract, shall require the execution of a contract by a water-users' association or irrigation district whereby such association or irrigation district shall be required to pay to the United States, without regard to default in the payment of charges against any individual farm unit or tract of irrigable land, the entire charges against all productive lands remaining in the project after the permanently unproductive lands shall have been eliminated and the charges against temporarily unproductive areas shall have been suspended in the manner and to the extent authorized and directed by sections 423 to 423g and 610 of this title.

The Secretary is authorized, in his discretion, upon request of individual water users or districts, and upon performance of the condition precedent above set forth, to amend any existing water-right contract to provide for increase in the time for payment of construction charges, which have not been accrued, to the extent that may be necessary under the conditions in each case, subject to the limitation that there shall be allowed for repayment not more than forty years from the date the first payment matured under the original contract, and also to extend the time for payment of operation and maintenance or water-rental charges due and unpaid for such period as in his judgment may be necessary not exceeding five years, the charges so extended to bear interest payable annually at the rate of 6 per centum per annum until paid, and to contract for the payment of the construction charges then due and unpaid within such term of years as the Secretary may find to be necessary, with interest payable annually at the rate of 6 per centum per annum until paid.

The Secretary of the Interior is authorized to complete and execute the supplemental contract, being negotiated on May 25, 1926, and which had, on that date, been approved as to form by the Secretary, between the United States and the Belle Fourche Irrigation District and at the expiration of said supplemental contract to enter into a permanent contract on behalf of the United States with said District in accordance with the terms of said supplemental contract.

(May 25, 1926, ch. 383, § 45, 44 Stat. 648.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original "this Act", meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title was omitted from the Code. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section constitutes a part of section 45 of act May 25, 1926. The remainder of said section 45 (the third par. and the fourth par., except the final proviso, which is classified as the last par. of this section) has been omitted.

### § 423e. Completion of new projects or new division; execution of contract with district as condition precedent to delivery of water; contents of contract; cooperation of States with United States; limitations on sale of land

No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with an irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a decree of a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts

[1] So in original. Probably should be "one of whom".

[2] See References in Text note below.

with irrigation districts hereinbefore referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sale is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided, however*, That if excess land is acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, water therefor may be furnished temporarily for a period not exceeding five years from the effective date of such acquisition, delivery of water thereafter ceasing until the transfer thereof to a landowner duly qualified to secure water therefor: *Provided further*, That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment.

(May 25, 1926, ch. 383, § 46, 44 Stat. 649; July 11, 1956, ch. 563, § 1, 70 Stat. 524.)

AMENDMENTS

1956—Act July 11, 1956, authorized delivery of water for not more than five years to excess lands acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise.

IMPERIAL IRRIGATION DISTRICT OF CALIFORNIA; NONAPPLICABILITY OF FEDERAL RECLAMATION LAWS

Pub. L. 96–570, § 4, Dec. 22, 1980, 94 Stat. 3340, provided that: ''The following provisions of the Federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California after the date of enactment of this Act [Dec. 22, 1980]:

''(a) section 5 of the Act entitled 'An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands', approved June 17, 1902 (43 U.S.C. 431);

''(b) section 46 of the Act entitled 'An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes', approved May 25, 1926 (42 U.S.C. 423e) [this section]; and

''(c) any other provision of law amendatory or supplementary to either of such sections.''

AMENDMENT OF EXISTING CONTRACTS

Section 3 of act July 11, 1956, provided that: ''The Secretary of the Interior is authorized, upon request of any holder of an existing contract under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to amend the contract to conform to the provisions of sections 1 and 2 of this Act [amending sections 423e and 544 of this title].''

## § 423f. Purpose of sections 423 to 423g and 610

The purpose of sections 423 to 423g and 610 of this title is the rehabilitation of the several reclamation projects and the insuring of their future success by placing them upon a sound operative and business basis, and the Secretary of the Interior is directed to administer said sections to those ends.

(May 25, 1926, ch. 383, § 48, 44 Stat. 650.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''this Act'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title has been omitted from the Code. For complete classification of this Act to the Code, see Tables.

## § 423g. Adjustment of water right charges as final adjudication on projects and divisions named

The adjustments under sections 1 to 40, inclusive, of the Act of Congress of May 25, 1926, 44 Statutes 636, are declared to be an incident of the operation of the ''reclamation law,'' a final adjudication on the projects and divisions named in such sections under the authority contained in section 466 of this title, and shall not after May 25, 1926, be construed to be the basis of reimbursement to the ''reclamation fund'' from the general fund of the Treasury or by the diversion to the ''reclamation fund'' of revenue of the United States not on May 25, 1926, required by law to be credited to such ''reclamation fund.''

(May 25, 1926, ch. 383, § 50, 44 Stat. 650.)

REFERENCES IN TEXT

Sections 1 to 40 of the Act of May 25, 1926, referred to in text, are not classified to the Code.

The reclamation law, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

## § 423h. Delivery of water to excess lands upon death of spouse

Where the death of a husband or wife causes lands in private ownership to become excess lands, as that term is used in section 423e of this title, and those lands had theretofore been eligible to receive water from a project under the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereto) without execution of a recordable contract under section 423e of this title, the Secretary of the Interior is authorized to furnish water to them, without requiring execution of such a

contract, so long as they remain in the ownership of the surviving spouse: *Provided*, That in the event of the remarriage of the surviving spouse, such lands shall be governed by applicable law without regard to the provisions of this section.

(Pub. L. 86–684, Sept. 2, 1960, 74 Stat. 732.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 424. Disposal of lands classified as temporarily or permanently unproductive; persons who may take

The Secretary of the Interior, hereinafter styled the Secretary, is authorized in connection with Federal irrigation projects to dispose of vacant public lands designated under sections 423 to 423g and 610 of this title, as temporarily unproductive or permanently unproductive to resident farm owners, and resident entrymen on Federal irrigation projects, in accordance with the provisions of sections 424 to 424e of this title.

(May 16, 1930, ch. 292, § 1, 46 Stat. 367.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''the Act of May 25, 1926'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title has been omitted from the Code. For complete classification of this Act to the Code, see Tables.

Hereinafter, referred to in text, means in sections 424a to 424d of this title.

### § 424a. Sale of unproductive lands; terms; area purchasable; tracts included

The Secretary is authorized to sell such lands to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided*, That no such resident farm owner or resident entryman shall be permitted to purchase under sections 424 to 424e of this title more than one hundred and sixty acres of such land, or an area which, together with land already owned on such Federal irrigation project, shall exceed three hundred and twenty acres: *And provided further*, That the authority given hereunder shall apply not only to tracts wholly classified as temporarily or permanently unproductive, but also to all tracts of public lands within Federal irrigation projects which by reason of the inclusion of lands classified as temporarily or permanently unproductive are found by the Secretary to be insufficient to support a family and to pay water charges.

(May 16, 1930, ch. 292, § 2, 46 Stat. 367.)

### § 424b. Application of certain statutes to lands sold

All ''permanently unproductive'' and ''temporarily unproductive'' land now or hereafter designated under sections 423 to 423g and 610 of this title, shall, when sold, remain subject to sections 423 and 423b of this title. The exchange provisions of section 423c of this title, shall not be applicable to the land purchased under sections 424 to 424e of this title.

(May 16, 1930, ch. 292, § 3, 46 Stat. 367.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''the Act of May 25, 1926'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title was omitted from the Code. For complete classification of this Act to the Code, see Tables.

### § 424c. Issuance of patents; recitals in patents; reservations

After the purchaser has paid to the United States all amounts due on the purchase price of said land, a patent shall issue which shall recite that the lands so patented have been classified in whole or in part as temporarily or permanently unproductive, as the case may be, under sections 423 to 423g and 610 of this title. Such patents shall also contain a reservation of a lien for water charges when deemed appropriate by the Secretary and reservations of coal or other mineral rights to the same extent as patents issued under the homestead laws.

(May 16, 1930, ch. 292, § 4, 46 Stat. 367.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''the Adjustment Act of May 25, 1926'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title was omitted from the Code. For complete classification of this Act to the Code, see Tables.

### § 424d. Use of moneys collected from sales, project construction charges and water rentals respecting unproductive lands

In the absence of a contrary requirement in the contracts between the United States and the water users organization or district assuming liability for the payment of project construction charges, all sums collected under sections 424 to 424e this title from the sale of lands, from the payment of project construction charges on ''temporarily unproductive'' or ''permanently unproductive'' lands so sold, and (except as stated in this section) from water rentals, shall inure to the Reclamation Fund as a credit to the construction charge payable on May 16, 1930, by the water users under their present contracts, to the extent of the additional expense, if any, incurred by such water users in furnishing water to the unproductive area, while still in that status, as approved by the Commissioner of Reclamation and the balance as a credit to the sums heretofore written off in accordance with sections 423 to 423g and 610 of this title. Where water rental collections under sections 424 to 424e of this title are in excess of the current operation and maintenance charges, the excess as determined by the Secretary, shall, in the absence of such contrary contract provision, inure to the Reclamation Fund as above provided, but

in all other cases the water rentals collected under sections 424 to 424e of this title shall be turned over to or retained by the operating district or association, where the project or part of the project from which the water rentals were collected is being operated and maintained by an irrigation district or water users association under contract with the United States.

(May 16, 1930, ch. 292, § 5, 46 Stat. 368.)

REFERENCES IN TEXT

Sections 423 to 423g and 610 of this title, referred to in text, was in the original ''said act of May 25, 1926'', meaning act of May 25, 1926, ch. 383, 44 Stat. 636, as amended, which enacted sections 423 to 423g and 610 of this title. Section 610 of this title was omitted from the Code. For complete classification of this Act to the Code, see Tables.

### § 424e. Authority of Secretary of the Interior; rules and regulations

The Secretary of the Interior is authorized to perform any and all acts and to make all rules and regulations necessary and proper for carrying out the purposes of sections 424 to 424e of this title.

(May 16, 1930, ch. 292, § 6, 46 Stat. 368.)

### § 425. Exemption of lands owned by States, etc., from acreage limitation on receipt of irrigation benefits; determination of exempt status

The provisions of Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto) which limit the acreage of irrigable land which may receive irrigation benefits from, through, or by means of Federal reclamation works, shall not be applicable to lands owned by States, political subdivisions, and agencies thereof, so long as such lands are farmed, primarily in the direct furtherance of a non-revenue-producing public function, as determined by the Secretary of the Interior; and to the extent that such lands continue to qualify for the exempted status afforded by this section they shall not be deemed to be excess lands for any purposes whatsoever under said reclamation laws.

(Pub. L. 91–310, § 1, July 7, 1970, 84 Stat. 411.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 425a. Eligibility of transferred lands owned by States, etc., for receipt of water from a Federal reclamation project, division, or unit; conditions of eligibility; purchase price

Irrigable lands owned by States, political subdivisions, and agencies thereof which do not fall within the provisions of section 425 of this title may receive water from a Federal reclamation project, division, or unit if a valid recordable contract for the sale of such lands within ten years of the date of said contract has been executed under terms and conditions satisfactory to the Secretary of the Interior but without limitation upon selling price.

The purchasers of lands sold under the provisions of this section, or the heirs and devisees of such purchasers, if otherwise eligible under reclamation law to receive project water for the lands purchased, shall not be disqualified for delivery of water by reason of the amount of the purchase price paid for said lands.

(Pub. L. 91–310, § 2, July 7, 1970, 84 Stat. 411.)

### § 425b. Receipt of project water by lessees of irrigable lands owned by States, etc.; time limitation; applicability of acreage limitations

Lessees of irrigable lands owned by States, political subdivisions, and agencies thereof which are held to be subject to the acreage limitation provisions of Federal reclamation law and for which recordable contracts to sell have not been made may receive project water from July 7, 1970, subject to the same acreage limitation provisions of Federal reclamation law as private landowners.

(Pub. L. 91–310, § 3, July 7, 1970, 84 Stat. 411; Pub. L. 97–293, title II, § 224(d), Oct. 12, 1982, 96 Stat. 1272.)

REFERENCES IN TEXT

The Federal reclamation law, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto. See section 425 of this title. Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1982—Pub. L. 97–293 struck out ''for a period not to exceed twenty-five years'' after ''may receive project water''.

## SUBCHAPTER VI—WATER RIGHT APPLICATIONS AND LAND ENTRIES

### § 431. Limitation as to amount of water; qualifications of applicant

No right to the use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such right shall permanently attach until all payments therefor are made.

(June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

IMPERIAL IRRIGATION DISTRICT OF CALIFORNIA; NONAPPLICABILITY OF FEDERAL RECLAMATION LAWS

Nonapplicability of Federal reclamation laws to lands within Imperial Irrigation District of California, see section 4 of Pub. L. 96–570, set out as a note under section 423e of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 432. Entry under homestead laws generally

Public lands which it is proposed to irrigate by means of any contemplated works shall be

subject to entry only under the provisions of the homestead laws, and shall be subject to the limitations, charges, terms, and conditions herein provided: *Provided*, That the commutation provisions of the homestead laws shall not apply to entries made under this Act.

(June 17, 1902, ch. 1093, § 3, 32 Stat. 388.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of part of section 3 of act June 17, 1902. Remainder of section 3 is classified to sections 416 and 434 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 433. Character and capital qualification of entrymen

The Secretary is authorized, under regulations to be promulgated by him, to require of each applicant including preference right ex-service men for entry to public lands on a project, such qualifications as to industry, experience, character, and capital, as in his opinion are necessary to give reasonable assurance of success by the prospective settler. The Secretary is authorized to appoint boards in part composed of private citizens, to assist in determining such qualifications.

(Dec. 5, 1924, ch. 4, § 4, subsec. C, 43 Stat. 702.)

ADVANCES BY FARM SECURITY ADMINISTRATION AS CAPITAL

Act Aug. 7, 1939, ch. 509, 53 Stat. 1238, as amended June 17, 1940, ch. 390, 54 Stat. 402; May 28, 1941, ch. 136, 55 Stat. 206; Aug. 1, 1942, ch. 540, 56 Stat. 732, authorized Secretary of the Interior during fiscal years 1940 to 1943 to consider money made available to settlers by the former Farm Security Administration to be all or part of the capital required under this section.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 433a. Preference of needy families

It is declared to be the policy of the Congress that, in the opening to entry of newly irrigated public lands, preference shall be given to families who have no other means of earning a livelihood, or who have been compelled to abandon, through no fault of their own, other farms in the United States, and with respect to whom it appears after careful study, in the case of each such family, that there is a probability that such family will be able to earn a livelihood on such irrigated lands.

(June 18, 1940, ch. 395, § 1, 54 Stat. 439.)

### § 434. Amount of land for which entry may be made; farm unit; subdivision of lands

Public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry in tracts of not less than forty nor more than one hundred and sixty acres: *Provided*, That whenever, in the opinion of the Secretary of the Interior, by reason of market conditions and the special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family on lands to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, he may fix a lesser area than forty acres as the minimum entry and may establish farm units of not less than ten nor more than one hundred and sixty acres. Wherever it may be necessary, for the purpose of accurate description, to further subdivide lands to be irrigated under the provisions of said reclamation Act, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the reclamation service, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivision surveys shall be noted upon the tract books in the Bureau of Land Management, and they shall be paid for from the reclamation fund: *Provided*, That an entryman may elect to enter under said reclamation Act a lesser area than the minimum limit in any State or Territory.

(June 17, 1902, ch. 1093, § 3, 32 Stat. 388; June 27, 1906, ch. 3559, § 1, 34 Stat. 519; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of a part of section 3 of act June 17, 1902, and section 1 of act June 27, 1906. Remainder of section 3 of act June 17, 1902, is classified to sections 416 and 432 of this title.

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§ 1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§ 3, 5 (May 18, 1981).

TRANSFER OF FUNCTIONS

"Bureau of Land Management" substituted in text for "General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 435. Entries in excess of farm unit

All entries under reclamation projects containing more than one farm unit shall be re-

duced in area and conformed to a single farm unit within two years after making proof of residence, improvement, and cultivation, or within two years after the issuance of a farm-unit plat for the project, if the same issues subsequent to the making of such proof: *Provided*, That such proof is made within four years from the date as announced by the Secretary of the Interior that water is available for delivery for the land. Any entryman failing within the period herein provided to dispose of the excess of his entry above one farm unit, in the manner provided by law, and to conform his entry to a single farm unit shall render his entry subject to cancellation as to the excess above one farm unit: *Provided*, That upon compliance with the provisions of law such entryman shall be entitled to receive a patent for that part of his entry which conforms to one farm unit as established for the project.

(Aug. 13, 1914, ch. 247, § 13, 38 Stat. 690.)

### § 436. Time when entry may be made generally

After June 25, 1910, no entry shall be made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage per entry, and water is ready to be delivered for the land in such unit or some part thereof and such fact has been announced by the Secretary of the Interior.

(June 25, 1910, ch. 407, § 5, 36 Stat. 836; Feb. 18, 1911, ch. 111, 36 Stat. 918; Aug. 13, 1914, ch. 247, § 10, 38 Stat. 689.)

CODIFICATION

Section comprises part of section 5 of act June 25, 1910, as amended by acts Feb. 18, 1911 and Aug. 13, 1914. Remainder of section 5 is set out as section 437 of this title.

### § 437. Lands as to which entries made prior to June 25, 1910, have been relinquished

Where entries made prior to June 25, 1910, have been or may be relinquished, in whole or in part, the lands so relinquished shall be subject to settlement and entry under the reclamation law.

(June 25, 1910, ch. 407, § 5, 36 Stat. 836; Feb. 18, 1911, ch. 111, 36 Stat. 918; Aug. 13, 1914, ch. 247, § 10, 38 Stat. 689.)

REFERENCES IN TEXT

The reclamation law, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section comprises part of section 5 of act June 25, 1910, as amended by acts Feb. 18, 1911 and Aug. 13, 1914. Remainder of section 5 is set out as section 436 of this title.

### § 438. Repealed. Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568

Section, acts Feb. 14, 1920, ch. 76, 41 Stat. 434; Jan. 21, 1922, ch. 32, § 1, 42 Stat. 358; Dec. 5, 1924, ch. 4, § 4(m), 43 Stat. 703, related to exchange of farm unit. See sections 451 to 451k of this title.

### § 439. Cultivation requirement as to entrymen

The entryman upon lands to be irrigated shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes.

(June 17, 1902, ch. 1093, § 5, 32 Stat. 389.)

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 440. Regulations as to use of water and requirements as to cultivation and reclamation of land; cancellation for noncompliance with requirements

The Secretary of the Interior is authorized to make general rules and regulations governing the use of water in the irrigation of the lands within any project, and may require the reclamation for agricultural purposes and the cultivation of one-fourth the irrigable area under each water-right application or entry within three full irrigation seasons after the filing of water-right application or entry, and the reclamation for agricultural purposes and the cultivation of one-half the irrigable area within five full irrigation seasons after the filing of the water-right application or entry, and shall provide for continued compliance with such requirements. Failure on the part of any water-right applicant or entryman to comply with such requirements shall render his application or entry subject to cancellation.

(Aug. 13, 1914, ch. 247, § 8, 38 Stat. 688.)

### § 441. Assignment of entries generally

From and after the filing with the Secretary of the Interior or such officer as he may designate of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the Act of June 17, 1902, may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said Act of June 17, 1902, may receive from the United States a patent for the lands: *Provided*, That all assignments made under the provisions of this section shall be subject to the limitations, charges, terms, and conditions of the reclamation Act.

(June 23, 1910, ch. 357, 36 Stat. 592; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

The reclamation Act, referred to in text, probably means act June 17, 1902, see note above.

TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" substituted in text for "Commissioner of

the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 442. Assignment between June 23, 1910, and January 1, 1913, confirmed

In the absence of any intervening valid adverse interests any assignment made between June 23, 1910, and January 1, 1913, of land upon which the assignor has submitted satisfactory final proof and the assignee purchased with the belief that the assignment was valid and under section 441 of this title, is confirmed, and the assignee shall be entitled to the land assigned as under section 441 of this title, notwithstanding that said original entry was conformed to farm units and that the part assigned was canceled and eliminated from said entry prior to the date of final proof: *Provided*, That all entries so assigned shall be subject to the limitations, terms, and conditions of the reclamation Act, and Acts Amendatory thereof and supplemental thereto, and all of said assignees whose entries are confirmed shall, as a condition to receiving patent, make the proof required, prior to May 8, 1916, of assignees.

(June 23, 1910, ch. 357, 36 Stat. 592; May 8, 1916, ch. 114, 39 Stat. 65.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. See section 441 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.

### § 443. Limitation of amount of land holdable under assignment of entry

No person shall hold by assignment more than one farm unit prior to final payment of all charges for all the land held by him subject to the reclamation law, except operation and maintenance charges not then due.

(Aug. 13, 1914, ch. 247, § 13, 38 Stat. 690.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 472 of this title.

### §§ 444, 445. Omitted

CODIFICATION

Section 444, act June 25, 1910, ch. 432, 36 Stat. 864, related to leave of absence for entrymen.

Section 445, act Apr. 30, 1912, ch. 100, 37 Stat. 105, related to protection of entries made prior to June 25, 1910.

### § 446. Right to make entry on relinquishment of former entry under land laws

Wherever the Secretary of the Interior, in carrying out the provisions of the reclamation Act, shall acquire by relinquishment lands covered by a bona fide unperfected entry under the land laws of the United States, the entryman upon such tract may make another and additional entry, as though the entry thus relinquished had not been made.

(June 27, 1906, ch. 3559, § 2, 34 Stat. 519.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, is identified in section 434 of this title.

### § 447. Relinquishment of homestead entry and making new entry

Any person who prior to March 4, 1915, made homestead entry under the Act of June 17, 1902 (32 Stat. 388), for land believed to be susceptible of irrigation which at the time of said entry was withdrawn for any contemplated irrigation project, may relinquish the same, provided that it has since been determined that the land embraced in such entry or all thereof in excess of twenty acres is not or will not be irrigable under the project, and in lieu thereof may select and make entry for any farm unit included within such irrigation project as finally established, notwithstanding the provisions of sections 436 and 437 of this title: *Provided*, That such entrymen shall be given credit on the new entry for the time of bona fide residence maintained on the original entry.

(Mar. 4, 1915, ch. 182, 38 Stat. 1215.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 448. Desert-land entries within reclamation project generally

Where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the Act of June 17, 1902, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: *Provided*, That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements theretofore made on any such desert-land entry of which proof has been or may be filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry the entryman shall thereupon comply with all the provisions of the aforesaid action[1] of June 17, 1902, and shall relinquish within a reasonable time after notice as the Sec-

[1] So in original. Probably should be ''Act''.

retary may prescribe and not less than two years all land embraced within his desert-land entry in excess of one farm unit, as determined by the Secretary of the Interior, and as to such retained farm unit he shall be entitled to make final proof and obtain patent upon compliance with the regulations of said Secretary applicable to the remainder of the irrigable land of the project and with the terms of payment prescribed in said Act of June 17, 1902, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation Act.

(June 27, 1906, ch. 3559, § 5, 34 Stat. 520; June 6, 1930, ch. 405, 46 Stat. 502.)

REFERENCES IN TEXT

Act of June 17, 1902, and said reclamation Act, referred to in text, are act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1930—Act June 6, 1930, among other changes, inserted ''within a reasonable time after notice as the Secretary may prescribe and not less than two years'', ''regulations of said Secretary applicable to the remainder of the irrigable land of the project'', and substituted provisions specifying one farm unit, as determined by the Secretary of the Interior for provisions specifying 160 acres.

### § 449. Assignment of desert-land entry within project

A desert-land entry within the exterior limits of a Government reclamation project may be assigned in whole or in part under section 324 of this title, and the benefits and limitations of section 448 of this title shall apply to such desert-land entryman and his assignees: *Provided*, That all such assignments shall conform to and be in accordance with farm units to be established by the Secretary of the Interior upon the application of the desert-land entryman. All such assignments made in good faith prior to July 24, 1912, shall be recognized under this section.

(July 24, 1912, ch. 251, 37 Stat. 200.)

## SUBCHAPTER VII—EXCHANGE AND AMENDMENT OF FARM UNITS

### § 451. Conditions necessary for exchange; terms; credits; rights nonassignable

Any entryman on an unpatented farm unit on a Federal irrigation project which shall be found by the Secretary of the Interior, pursuant to a land classification, to be insufficient to support a family shall be entitled, upon timely application to the Secretary to exchange his farm unit for another farm unit of unentered public land within the same or any other such project, or, upon terms and conditions satisfactory to the Secretary, for any other available farm unit on the same or any other such project. He shall be given credit under the homestead laws for residence, improvement, and cultivation made or performed upon the original entry, and if satisfactory final proof of residence, improvement, and cultivation has been made on the original entry it shall not be necessary to submit such proof upon the lieu entry. Rights under this subchapter shall not be assignable.

(Aug. 13, 1953, ch. 428, § 1, 67 Stat. 566.)

### § 451a. Persons eligible for benefits

The benefits of section 451 of this title shall, and those of sections 451b to 451k of this title may, be extended by the Secretary to (a) any lawful assignee of an unpatented farm unit on a Federal irrigation project who took the assignment in good faith not knowing and not having reason to believe the farm unit to be insufficient to support a family; and (b) any resident owner of private lands on any such project whose lands shall be found to be insufficient to support a family and (i) who, apart from his ownership of the lands to be conveyed pursuant to clause (iii) hereof and apart from his having previously exhausted his homestead right, if such be the case, is eligible to enter unappropriated public lands under section 161[1] of this title, (ii) who lawfully acquired his lands as an entire farm unit under the Federal reclamation laws from the United States or, in the case of a widow, widower, heir, or devisee, from a spouse or ancestor, as the case may be, who so acquired them, and (iii) who conveys, free from all encumbrances, to the United States all of his lands served by the project or such portion thereof as the Secretary may designate.

(Aug. 13, 1953, ch. 428, § 2, 67 Stat. 566.)

REFERENCES IN TEXT

Section 161 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

The Federal reclamation laws, referred to in par. (b)(ii), are identified in section 451i of this title.

### § 451b. Irrigation construction charges

#### (a) Credits to entryman

If an entryman making an exchange under the provisions of this subchapter becomes the direct obligor for payment to the United States of irrigation construction charges for his lieu farm unit or undertakes a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary, to the extent to which such charges upon the original farm unit or the equivalent thereof have actually been paid to the United States or to an irrigation district or other form of organization under contract with the United States, may give him credit for such charges upon the lieu unit.

#### (b) Credits to district; reduction of costs

If an irrigation district or other form of organization within the boundaries of which is located the lieu farm unit of an entryman making an exchange under the provisions of this subchapter is or becomes the direct obligor for payment to the United States of irrigation construction charges or undertakes or has under-

[1] See References in Text note below.

taken a contract under which the equivalent, in whole or in part, of such charges is returned to the United States, the Secretary may, to the extent to which it gives credit to the entryman for such charges or the equivalent thereof actually paid upon the original farm unit, give the district or other form of organization credit for payment of such charges. Upon the making of an exchange pursuant to the provisions of this subchapter, the Secretary may reduce (i) the reimbursable construction costs of the project or division thereof upon which the original farm unit was located by the amount of such costs which were properly assignable to the original farm unit and which were not then due and payable, and (ii) the reimbursable construction costs of the project or division thereof upon which the lieu farm unit is located by the amount of credit which might be given under the provisions of this section.

**(c) Extension of benefits to districts**

In any case in which the benefits of this subchapter are extended to an assignee of an unpatented farm unit or to a resident owner of private lands, as provided in subsection (b) of section 451a of this title, an appropriate extension of benefits may also be made to an irrigation district or other form of organization under subsection (b) of this section.

(Aug. 13, 1953, ch. 428, § 3, 67 Stat. 566.)

### § 451c. Cancellation of charges or liens; credits

(a) After his approval of any application for an exchange as provided in this subchapter, the Secretary may cancel and release, in whole or in part, any and all charges or liens against the entryman or against the relinquished farm unit which are within his administrative jurisdiction. In administering the provisions of this subsection the Secretary shall take into consideration other charges and liens and the rights and interests of other lien holders as to him may seem just and equitable.

(b) An entryman making an exchange under the provisions of this subchapter may be given credit by the Secretary upon any land development charges made by the United States in connection with the lieu farm unit for any such charges paid to the United States in connection with the original unit. A resident owner making an exchange under the provisions of this subchapter may, to the extent, to which he or, in the case of a widow, widower, heir, or devisee, his spouse or ancestor, as the case may be, has paid to the United States the purchase price of the original farm unit, be given credit by the Secretary upon the purchase price of his lieu farm unit; such credit may also be applied in the manner and circumstances provided in section 451b of this title upon irrigation construction charges for or properly assignable to his lieu farm unit.

(Aug. 13, 1953, ch. 428, § 4, 67 Stat. 567.)

### § 451d. Disposal of improvements; water rights; revertibility of relinquished land

Within ninety days after receipt of notice of the approval by the Secretary of the application for exchange of entry and subject to the rights and interests of other parties, the entryman may dispose of, and he or his transferee or vendee may remove, any and all improvements placed on the relinquished unit. Upon the making of an exchange under this subchapter, any water right appurtenant to the original lands under the Federal reclamation laws shall cease and the water supply theretofore used or required to satisfy such right shall be available for disposition under those laws. Any land relinquished or conveyed to the United States under this subchapter shall revert to or become a part of the public domain and be subject to disposition by the Secretary under any of the provisions of the Federal reclamation laws.

(Aug. 13, 1953, ch. 428, § 5, 67 Stat. 567.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are identified in section 451i of this title.

### § 451e. Amendment of farm unit; application; amount of land; exchange; waiver

Upon timely application by an entryman on an unpatented farm unit on a Federal irrigation project, which shall be found by the Secretary, pursuant to a land classification, to be insufficient to support a family, the Secretary may, upon terms and conditions satisfactory to him, amend the farm unit of said entryman, combine all or a part of the lands of said farm unit with other contiguous or noncontiguous lands on the same project which are declared by the Secretary to be open to entry or purchase, and thereby form and designate an amended farm unit for said entryman, which in no event shall exceed three hundred and twenty acres of land containing not more than one hundred and sixty irrigable acres designated by the Secretary. The acceptance of the amended farm unit by the applicant shall be deemed an exchange within the meaning of this subchapter. In extending the benefits of this section to a resident owner of private lands as provided in section 451a of this title, the Secretary may waive, in whole or in part, the provisions of clause (iii) of subsection (b) of section 451a of this title.

(Aug. 13, 1953, ch. 428, § 6, 67 Stat. 567.)

### § 451f. Exchanges subject to mortgage contracts

Any exchange pursuant to this subchapter of land that is subject to a mortgage contract with the Secretary of Agriculture under sections 1006a and 1006b of title 7, and any disposition pursuant to this subchapter of property that is subject to such a mortgage contract, shall be effected only in such form and manner and upon such terms and conditions as are consistent with the authority of the Secretary of Agriculture over such mortgage contract and such property under the Bankhead-Jones Farm Tenant Act, as amended [7 U.S.C. 1000 et seq.], as supplemented by sections 1006a and 1006b of title 7.

(Aug. 13, 1953, ch. 428, § 7, 67 Stat. 568.)

REFERENCES IN TEXT

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification

of this Act to the Code, see section 1000 of Title 7 and Tables.

### § 451g. Preferences; veterans; timely applicants

Where there are two or more timely applicants for a farm unit on a particular project or division thereof under the provisions of this subchapter, one or more of whom is an ex-serviceman who would be entitled under the applicable statutes to a preference in making entry of farm units on such project or division, the ex-serviceman, or one of them, shall have a preference in making such exchange. Any timely applicant for an exchange under the provisions of this subchapter shall be entitled to preference over any other applicant for a farm unit on the same project or division thereof.

(Aug. 13, 1953, ch. 428, § 8, 67 Stat. 568.)

### § 451h. Establishment of farm units; size; contiguous or noncontiguous

In administering sections 434, 448, and 544 of this title, the Secretary may, to the extent found necessary as shown by a land classification to provide farm units sufficient in size to support a family, establish such units of not more than three hundred and twenty acres containing not more than one hundred and sixty irrigable acres designated by him and may permit entry and assignment under the homestead laws, and retention and assignment under the desert land laws, of such units. The lands included in farm units established pursuant to the authority of this section and entered under the homestead laws may be contiguous or noncontiguous.

(Aug. 13, 1953, ch. 428, § 9, 67 Stat. 568.)

### § 451i. "Federal irrigation project" defined

As used in this subchapter, the term ''Federal irrigation project'' means any irrigation project subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), to which laws this subchapter itself shall be deemed a supplement.

(Aug. 13, 1953, ch. 428, § 11, 67 Stat. 568.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 451j. Rules and regulations

The Secretary may perform any and all acts and make all rules and regulations necessary and proper for carrying out the purposes of this subchapter.

(Aug. 13, 1953, ch. 428, § 12, 67 Stat. 568.)

### § 451k. Availability of appropriations; expenses as nonreimbursable

Appropriations heretofore or hereafter made for carrying on the functions of the Bureau of Reclamation shall be available for credits, expenses, charges, and costs provided by or incurred under this subchapter. Expenses incurred in carrying out the provisions of sections 451 to 451f of this title, shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

(Aug. 13, 1953, ch. 428, § 13, 67 Stat. 568.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are identified in section 451i of this title.

## SUBCHAPTER VIII—TAXATION

### § 455. State taxation; lands of homestead entryman

The lands of any homestead entryman under the Act of June 17, 1902, known as the Reclamation Act, or any Act amendatory thereof or supplementary thereto, and the lands of any entryman on ceded Indian lands within any Indian irrigation project, may, after satisfactory proof of residence, improvement, and cultivation, and acceptance of such proof by the Bureau of Land Management, be taxed by the State or political subdivision thereof in which such lands are located in the same manner and to the same extent as lands of a like character held under private ownership may be taxed.

(Apr. 21, 1928, ch. 394, § 1, 45 Stat. 439; June 13, 1930, ch. 477, 46 Stat. 581; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of June 17, 1902, known as the Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1930—Act June 13, 1930, inserted ''and the lands of any entryman on ceded Indian lands within any Indian irrigation project,''.

TRANSFER OF FUNCTIONS

''Bureau of Land Management'' substituted in text for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 455a. State taxation; lands of desert-land entryman

The lands of any desert-land entryman located within an irrigation project constructed under the Reclamation Act and obtaining a water supply from such project, and for whose land water has been actually available for a period of four years, may likewise be taxed by the State or political subdivision thereof in which such lands are located.

(Apr. 21, 1928, ch. 394, § 2, 45 Stat. 439; June 13, 1930, ch. 477, 46 Stat. 581.)

REFERENCES IN TEXT

The Reclamation Act, referred to in text, is identified in section 455 of this title.

AMENDMENTS

1930—Act June 13, 1930, reenacted section without change.

### § 455b. State tax as lien upon lands; prior lien of United States; rights of holder of tax title

All such taxes legally assessed shall be a lien upon the lands and may be enforced upon said lands by the sale thereof in the same manner and under the same proceeding whereby said taxes are enforced against lands held under private ownership; but the title or interest which the State or political subdivision thereof may convey by tax sale, tax deed, or as a result of any tax proceeding shall be subject to a prior lien reserved to the United States for all due and unpaid installments on the appraised purchase price of such lands and for all the unpaid charges authorized by law whether accrued or otherwise. The holder of such tax deed or tax title resulting from such tax shall be entitled to all the rights and privileges in the land of an assignee of such entryman on ceded Indian lands or of an assignee under the provisions of section 441 of this title or of any such entries in a Federal reclamation project constructed under said Act of June 17, 1902, as supplemented or amended.

(Apr. 21, 1928, ch. 394, § 3, 45 Stat. 439; June 13, 1930, ch. 477, 46 Stat. 581.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 455c. Extinguishment of liens and tax titles on reversion of lands to United States

If the lands of any such entryman shall at any time revert to the United States for any reason whatever, all such liens or tax titles resulting from assessments levied after June 13, 1930, upon such lands in favor of the State or political subdivision thereof wherein the lands are located, shall be and shall be held to have been, thereupon extinguished; and the levying of any such assessment by such State or political subdivision shall be deemed to be an agreement on its part, in the event of such reversion, to execute and record a formal release of such lien or tax title.

(Apr. 21, 1928, ch. 394, § 4, as added June 13, 1930, ch. 477, 46 Stat. 581.)

## SUBCHAPTER IX—CONSTRUCTION CHARGES

### § 461. Determination of construction charges generally

The construction charges which shall be made per acre upon the entries and upon lands in private ownership which may be irrigated by the waters of any irrigation project shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably.

(June 17, 1902, ch. 1093, § 4, 32 Stat. 389.)

CODIFICATION

Section is comprised of part of section 4 of act June 17, 1902. Remainder of such section 4 is classified to section 419 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 462. Classification of irrigable lands and equitable apportionment of charges

The irrigable lands of each new project and new division of a project approved, after December 5, 1924, shall be classified by the Secretary with respect to their power, under a proper agricultural program, to support a family and pay water charges, and the Secretary is authorized to fix different construction charges against different classes of land under the same project for the purpose of equitably apportioning the total construction cost so that all lands may as far as practicable bear the burden of such cost according to their productive value.

(Dec. 5, 1924, ch. 4, § 4, subsec. D, 43 Stat. 702.)

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 463. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650

Section, act Dec. 5, 1924, ch. 4, § 4, subsec. E, 43 Stat. 702, related to notices concerning construction charges.

### § 464. Increases of charges on failure to make water-right application

In all cases where application for water right for lands in private ownership or lands held under entries not subject to the reclamation law shall not be made within one year after August 13, 1914, or within one year after notice issued in pursuance of section 419 of this title, in cases where such notice has not been issued prior to August 13, 1914, the construction charges for such land shall be increased 5 per centum each year until such application is made and an initial installment is paid.

(Aug. 13, 1914, ch. 247, § 9, 38 Stat. 689.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 472 of this title.

### § 465. Charges for water service prior to notice of construction charge

Whenever water is available and it is impracticable to apportion operation and maintenance charges as provided in section 492 of this title, the Secretary of the Interior may, prior to giving public notice of the construction charge per acre upon land under any project, furnish water to any entryman or private landowner thereunder until such notice is given, making a reasonable charge therefor, and such charges shall be subject to the same penalties and to the provisions for cancellation and collection as herein provided for other operation and maintenance charges.

(Aug. 13, 1914, ch. 247, § 11, 38 Stat. 689.)

REFERENCES IN TEXT

Herein, referred to in text, means act Aug. 13, 1914, ch. 247, 38 Stat. 686, as amended, which is classified to

sections 373, 414, 418, 435 to 437, 440, 443, 464, 465, 469, 471, 472, 475, 477 to 481, 492, 493, 494 to 497, and 499 of this title. For complete classification of this Act to the Code, see Tables.

### § 466. Surveys to correct errors or inequalities in original basis of project

On each project existing prior to December 5, 1924, where, in the opinion of the Secretary, it appears that on account of lack of fertility in the soil, an inadequate water supply, or other physical causes, settlers are unable to pay construction costs, or whenever it appears that the cost of any reclamation project by reason of error or mistake or for any cause has been apportioned or charged upon a smaller area of land than the total area of land under said project, the Secretary is authorized to undertake a comprehensive and detailed survey to ascertain all pertinent facts, and report in each case the result of such survey to the Congress, with his recommendations: *Provided*, That the cost and expense of each such survey shall be charged to the appropriation for the project on account of which the same is made, but shall not be charged as a part of the construction or operation and maintenance cost payable by the water users under the project.

(Dec. 5, 1924, ch. 4, § 4, subsec. K, 43 Stat. 703.)

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 467. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650

Section, act Dec. 5, 1924, ch. 4, § 4, subsec. L, 43 Stat. 703, related to adjustment of charges and items to be included in adjustment.

### § 468. Withdrawal of notice given and modification of applications and contracts made prior to February 13, 1911

The Secretary of the Interior may, in his discretion, withdraw any public notice issued prior to February 13, 1911, under section 419 of this title, and he may agree to such modification of water-right applications duly filed prior to February 13, 1911, or contracts with water users' associations and others, entered into prior to February 13, 1911, as he may deem advisable, or he may consent to the abrogation of such water-right applications and contracts, and proceed in all respects as if no such notice has been given.

(Feb. 13, 1911, ch. 49, 36 Stat. 902.)

### § 469. Increase in construction charges

No increase in the construction charges shall, after August 13, 1914, be made, after the same have been fixed by public notice, except by agreement between the Secretary of the Interior and a majority of the water-right applicants and entrymen to be affected by such increase, whereupon all water-right applicants and entrymen in the area proposed to be affected by the increased charge shall become subject thereto. Such increased charge shall be added to the construction charge and payment thereof distributed over the remaining unpaid installments of construction charges: *Provided*, That the Secretary of the Interior, in his discretion, may agree that such increased construction charge shall be paid in additional annual installments, each of which shall be at least equal to the amount of the largest installment as fixed for the project by the public notice theretofore issued. And such additional installments of the increased construction charge, as so agreed upon shall become due and payable on December 1 of each year subsequent to the year when the final installment of the construction charge under such public notice is due and payable: *Provided further*, That all such increased construction charges shall be subject to the same conditions, penalties, and suit or action as provided in sections 478, 480, and 481 of this title.

(Aug. 13, 1914, ch. 247, § 4, 38 Stat. 687.)

### § 470. When work increasing construction charge may be undertaken

No work shall be undertaken or expenditure made for any lands, for which the construction charge has been fixed by public notice, which work or expenditure shall, in the opinion of the Secretary of the Interior, increase the construction cost above the construction charge so fixed; unless and until valid and binding agreement to repay the cost thereof shall have been entered into between the Secretary of the Interior and the water-right applicants and entrymen affected by such increased cost, as provided by section 469 of this title.

(Mar. 3, 1915, ch. 75, § 1, 38 Stat. 861.)

### § 471. Initial payment and annual installments of charges generally

Any entryman or applicant shall at the time of making water-right application or entry, as the case may be, pay into the reclamation fund 5 per centum of the construction charge fixed for his land as an initial installment, and shall pay the balance of said charge in annual installments. The first of the annual installments shall become due and payable on December 1 of the fifth calendar year after the initial installment: *Provided*, That any water-right applicant or entryman may, if he so elects, pay the whole or any part of the construction charges owing by him within any shorter period: *Provided further*, That entry may be made whenever water is available, as announced by the Secretary of the Interior, and the initial payment be made when the charge per acre is established.

(Aug. 13, 1914, ch. 247, § 1, 38 Stat. 686.)

CODIFICATION

Section comprises part of section 1 of act Aug. 13, 1914. Remainder of section 1 is set out as section 472 of this title.

### § 472. Installments on entries or applications made after August 13, 1914, and prior to December 5, 1924

Any person whose lands, after August 13, 1914, and prior to December 5, 1924, became subject to the terms and conditions of the Act approved June seventeenth, nineteen hundred and two, entitled "An Act appropriating the receipts from the sale and disposal of public lands in cer-

tain States and Territories to the construction of irrigation works for the reclamation of arid lands,'' and Acts amendatory thereof or supplementary thereto, hereafter to be referred to as the reclamation law, and any person who, after August 13, 1914, and prior to December 5, 1924, made entry thereunder shall pay the balance of said charge after the initial payment in fifteen annual installments, the first five of which shall each be five per centum of the construction charge and the remainder shall each be seven per centum until the whole amount shall have been paid.

(Aug. 13, 1914, ch. 247, § 1, 38 Stat. 686.)

REFERENCES IN TEXT

Act approved June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

References to December 5, 1924, were inserted in conformity with provisions of act Dec. 5, 1924, ch. 4, § 4, subsec. F, 43 Stat. 702, which changed the method of paying the annual installments after such date. Such provisions, which were classified to sections 473 and 474 of this title, were repealed by act May 25, 1926, ch. 383, § 47, 44 Stat. 650. See sections 423 to 423g of this title.

Section comprises part of section 1 of act Aug. 13, 1914. Remainder of section 1 is set out as section 471 of this title.

### §§ 473, 474. Repealed. May 25, 1926, ch. 383, § 47, 44 Stat. 650

Section 473, act Dec. 5, 1924, ch. 4, § 4, subsec. F, 43 Stat. 702, related to payment of project construction charges in installments after Dec. 5, 1924.

Section 474, act Dec. 5, 1924, ch. 4, § 4, subsec. F, 43 Stat. 702, related to modification of contracts existing prior to Dec. 5, 1924, in respect to payment of construction charges.

### § 475. Annual installments on entries and contracts prior to August 13, 1914

Any person whose land or entry, prior to August 13, 1914, became subject to the terms and conditions of the reclamation law shall pay the construction charge, or the portion of the construction charge remaining unpaid, in twenty annual installments, the first of which shall become due and payable on December 1 of the year in which the public notice affecting his land is issued, and subsequent installments on December 1 of each year thereafter. The first four of such installments shall each be 2 per centum, the next two installments shall each be 4 per centum, and the next fourteen each 6 per centum of the total construction charge, or the portion of the construction charge unpaid at the beginning of such installments.

Any person whose land or entry prior to August 13, 1914, became subject to the reclamation law, who desires to secure the benefits of the extension of the period of payments provided by sections 373, 414, 418, 435 to 437, 440, 443, 464, 465, 469, 471, 472, 475, 477 to 481, 492, 493, 494 to 497 and 499 of this title, shall, within six months after the issuance of the first public notice hereunder affecting his land or entry, notify the Secretary of the Interior, in the manner to be prescribed by said Secretary, of his acceptance of all the terms and conditions of such sections, and thereafter his lands or entry shall be subject to all of the provisions of such sections: *Provided*, That upon sufficient showing the Secretary of the Interior may, in his discretion, permit notice of acceptance of all the terms and conditions of such sections to be filed at any time after the time limit hereinbefore fixed for filing such acceptance shall have expired, conditioned, however, that where the applicant for such acceptance is in arrears on construction charges, he shall at the time of acceptance pay such installments of the construction charge as he would have been required to pay had he accepted the benefits of such sections within the time limit hereinabove fixed, plus the penalties that would have accrued had he so accepted, and such applicant shall thereafter be upon the same status that he would have been had he accepted the provisions of such sections within the time limit hereinabove fixed, and thereafter the lands or entry of any such persons so filing such notice of acceptance shall be subject to all the provisions of such sections.

(Aug. 13, 1914, ch. 247, §§ 2, 14, 38 Stat. 687, 690; July 26, 1916, ch. 257, 39 Stat. 390.)

REFERENCES IN TEXT

The reclamation law, referred to in text, is defined in section 472 of this title.

### § 476. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act June 17, 1902, ch. 1093, § 5, 32 Stat. 389, provided for payment of construction charges to register and receiver of local land office.

### § 477. Association or irrigation district as fiscal agent of Government

The Secretary of the Interior is authorized, in his discretion, to designate and appoint, under such rules and regulations as he may prescribe, the legally organized water-users' association or irrigation district, under any reclamation project, as the fiscal agent of the United States to collect the annual payments on the construction charge of the project and the annual charges for operation and maintenance and all penalties: *Provided*, That no water-right applicant or entryman shall be entitled to credit for any payment thus made until the same shall have been paid over to an officer designated by the Secretary of the Interior to receive the same.

(Aug. 13, 1914, ch. 247, § 7, 38 Stat. 688.)

### § 478. Pecuniary penalty for nonpayment of installments of construction charges

If any water-right applicant or entryman shall have, prior to December 5, 1924, failed to pay any installment of his construction charges when due, there shall be added to the amount unpaid a penalty of 1 per centum thereof, and there shall be added a like penalty of 1 per centum of the amount unpaid on the first day of each month thereafter so long as such default shall have continued: *Provided*, That the penalty of 1

per centum per month against delinquent accounts, is reduced to one-half of 1 per centum per month, as to all installments which may become due after December 5, 1924.

(Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687; Dec. 5, 1924, ch. 4, § 4, subsec. H, 43 Stat. 703.)

CODIFICATION

Section consolidates first sentence of act Aug. 13, 1914, § 3, with act Dec. 5, 1924, § 4, subsec. H.

### § 479. Shutting off water for nonpayment of construction charge

No water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any annual construction charge and penalties.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 493, 494, and 495 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

### § 480. Cancellation of water right or entry for nonpayment of construction charge

If any water-right applicant or entryman shall be one year in default in the payment of any installment of the construction charges and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such default.

(Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687.)

### § 481. Action to recover construction charges and penalties

If the Secretary of the Interior shall so elect, he may cause suit or action to be brought for the recovery of the amount of the construction charges in default and penalties; but if suit or action be brought, the right to declare a cancellation and forfeiture of the entry or water-right application as provided in section 480 of this title shall be suspended pending such suit or action.

(Aug. 13, 1914, ch. 247, § 3, 38 Stat. 687.)

### § 482. Omitted

CODIFICATION

Section, act May 10, 1926, ch. 277, 44 Stat. 479, authorized Secretary of the Interior, until June 30, 1927, to contract with water-users' associations for payment of charges within such term as may be necessary. See section 485b of this title.

## SUBCHAPTER X—PAYMENT OF CONSTRUCTION CHARGES

### § 485. Declaration of policy

For the purpose of providing for United States reclamation projects a feasible and comprehensive plan for an economical and equitable treatment of repayment problems and for variable payments of construction charges which can be met regularly and fully from year to year during periods of decline in agricultural income and unsatisfactory conditions of agriculture as well as during periods of prosperity and good prices for agricultural products, and which will protect adequately the financial interest of the United States in said projects, obligations to pay construction charges may be revised or undertaken pursuant to the provisions of this subchapter.

(Aug. 4, 1939, ch. 418, § 1, 53 Stat. 1187.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", meaning act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, known as the Reclamation Project Act of 1939, which enacted this subchapter, sections 375a, 380a, and 387 to 389 of this title and section 16d of former Title 41, Public Contracts, and enacted provision set out as a note under section 485j of this title. For complete classification of this Act to the Code, see section 485k of this title and Tables.

### § 485a. Definitions

As used in this subchapter—

(a) The term "Federal reclamation laws" shall mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

(b) The term "Secretary" shall mean the Secretary of the Interior.

(c) The term "project" shall mean any reclamation or irrigation project, including incidental features thereof, authorized by the Federal reclamation laws, or constructed by the United States pursuant to said laws, or in connection with which there is a repayment contract executed by the United States, pursuant to said laws, or any project constructed or operated and maintained by the Secretary through the Bureau of Reclamation for the reclamation of arid lands or other purposes.

(d) The term "construction charges" shall mean the amounts of principal obligations payable to the United States under water-right applications, repayment contracts, orders of the Secretary, or other forms of obligation entered into pursuant to the Federal reclamation laws, excepting amounts payable for water rental or power charges, operation and maintenance and other yearly service charges, and excepting also any other operation and maintenance, interest, or other charges which are not covered into the principal sums of the construction accounts of the Bureau of Reclamation.

(e) The term "repayment contract" shall mean any contract providing for payment of construction charges to the United States.

(f) The term "project contract unit" shall mean a project or any substantial area of a project which is covered or is proposed to be covered by a repayment contract. On any project where two or more repayment contracts in part cover the same area and in part different areas, the area covered by each such repayment contract shall be a separate project contract unit. On any project where there are either two or more repayment contracts on a single project contract unit or two or more project contract units, the repayment contracts or project con-

tract units may be merged by agreements in form satisfactory to the Secretary.

(g) The term ''organization'' shall mean any conservancy district, irrigation district, water users' association, or other organization, which is organized under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws.

(h) The term ''division of a project'' shall mean any part of a project designated as a division by order of the Secretary or any phase or feature of project operations given a separate designation as a division by order of the Secretary for the purposes of orderly and efficient administration.

(i) The term ''development unit'' shall mean a part of a project which, for purposes of orderly engineering or reclamation development, is designated as a development unit by order of the Secretary.

(j) The term ''irrigation block'' shall mean an area of arid or semiarid lands in a project in which, in the judgment of the Secretary, the irrigable lands should be reclaimed and put under irrigation at substantially the same time, and which is designated as an irrigation block by order of the Secretary.

(Aug. 4, 1939, ch. 418, § 2, 53 Stat. 1187; Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, known as the Reclamation Project Act of 1939, which enacted this subchapter, sections 375a, 380a, and 387 to 389 of this title and section 16d of former Title 41, Public Contracts, and enacted provision set out as a note under section 485j of this title. For complete classification of this Act to the Code, see section 485k of this title and Tables.

Act of June 17, 1902, referred to in subsec. (a), is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1958—Subsecs. (h) to (k). Pub. L. 85–611 repealed subsec. (h) which defined ''annual returns'' and ''normal returns'', and redesignated subsecs. (i) to (k) as (h) to (j), respectively.

### § 485b. Amendment of existing repayment contracts

In connection with any repayment contract or other form of obligation, existing on August 4, 1939, to pay construction charges, providing for repayment on the basis of a definite period, the Secretary is authorized, upon request by the water users involved or their duly authorized representatives for amendment under this section of said contract or other form of obligation, and if in the Secretary's judgement such amendment is both practicable and in keeping with the general purpose of this subchapter, to amend said contract or other form of obligation so as to provide that the construction charges remaining unaccrued on the date of the amendment, or any later date agreed upon, shall be spread in definite annual installments on the basis of a longer definite period fixed in each case by the Secretary: *Provided*, That for any construction charges said longer period shall not exceed forty years, exclusive of 1931 and subsequent years to the extent of moratoria or deferments of construction charges due and payable for such years effected pursuant to Acts of Congress, from the date when the first installment of said construction charges become due and payable under the original obligation to pay said construction charges and in no event shall the unexpired part of said longer period exceed double the number of remaining years, as of the date of the amendment made pursuant to this subchapter, in which installments of said construction charges would become due and payable under said existing repayment contract or other form of obligation to pay construction charges.

(Aug. 4, 1939, ch. 418, § 3, 53 Stat. 1188.)

EXTENSION OF DATE OF MODIFICATION OF REPAYMENT CONTRACTS

Act Mar. 6, 1952, ch. 94, 66 Stat. 16, as amended by acts Aug. 31, 1954, ch. 1168, 68 Stat. 1044; Pub. L. 85–156, Aug. 21, 1957, 71 Stat. 390; Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543; Pub. L. 86–308, § 2, Sept. 21, 1959, 73 Stat. 585, provided that the authority vested in the Secretary of the Interior by sections 485b and 485f of this title should be extended through Dec. 31, 1960.

### § 485b–1. Deferment of installments under repayment contracts; determination of undue burden; conditions; supplemental contract; report to Congress

(a) The authority granted in section 485b of this title for modification of existing repayment contracts or other forms of obligations to pay construction charges shall continue through December 31, 1960.

(b) The Secretary is authorized, subject to the provisions of this subsection to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation as he deems necessary to adjust such installments to amounts within the probable ability of the water users to pay. Any such deferment shall be effected only after findings by the Secretary that the installments under consideration probably cannot be paid on their due date without undue burden on the water users, considering the various factors which in the Secretary's judgment bear on the ability of the water users so to pay.

The Secretary may effect the deferments hereunder subject to such conditions and provisions relating to the operation and maintenance of the project involved as he deems to be in the interest of the United States. If, however, any deferments would affect installments to accrue more than twelve months after the action of deferment, they shall be effected only by a formal supplemental contract. Such a contract shall provide by its terms that, it being only an interim solution of the repayment problems dealt with therein, its terms are not, in themselves, to be construed as a criterion of the terms of any amendatory contract that may be negotiated and that any such amendatory contract must be approved by the Congress unless it does not lengthen the repayment period for the project in question beyond that permitted by

the laws applicable to that project, involves no reduction in the total amount payable by the water users, and is not in other respects less advantageous to the Government than the existing contract arrangements. The Secretary shall report to the Congress all deferments granted under this subsection.

(Aug. 4, 1939, ch. 418, § 17, 53 Stat. 1198; Apr. 24, 1945, ch. 94, § 3, 59 Stat. 76; Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543; Pub. L. 86–308, § 1, Sept. 21, 1959, 73 Stat. 584.)

AMENDMENTS

1959—Subsec. (b). Pub. L. 86–308 made permanent the Secretary's authority to grant deferments in payment of installments of construction charges under repayment contracts.

1958—Subsec. (a). Pub. L. 85–611 substituted ''section 485b'' for ''sections 485b and 485c''.

1945—Subsec. (a). Act Apr. 24, 1945, extended authority for modification of existing repayment contracts or other forms of obligations to pay construction charges through Dec. 31, 1950, or Dec. 31 of the fifth full calendar year after the cessation of hostilities of World War II, as determined by proclamation of the President or concurrent resolution of Congress, whichever period was the longer.

Subsec. (b). Act Apr. 24, 1945, authorized Secretary, subject to provisions of this subsection, to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation that are due and unpaid as of Apr. 24, 1945, or which would become due prior to the expiration of authority under subsec. (a).

APPLICABILITY TO OTHER IRRIGATION PROJECTS

Section 3 of Pub. L. 86–308 provided that: ''The provisions of section 17, subsection (b), of the Reclamation Project Act of 1939 [subsec. (b) of this section], as amended by section 1 of this Act, shall apply to any project within the administrative jurisdiction of the Bureau of Reclamation to which, if it had been constructed as a project under the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 383) and Acts amendatory thereof or supplementary thereto [see Short Title note set out under section 371 of this title]), these provisions would be applicable.''

### § 485c. Repealed. Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543

Section, acts Aug. 4, 1939, ch. 418, § 4, 53 Stat. 1189; Apr. 24, 1945, ch. 94, § 1, 59 Stat. 75, related to repayment contracts with the United States. See section 485h(d)(3) of this title.

### § 485d. Time of payments to the United States

The Secretary in this discretion may require, in connection with any contract entered into pursuant to the authority of this subchapter, that the contract provide (1) that the payments for each year to be made to the United States shall become due and payable on such date or dates, not exceeding two, in each year as the Secretary determines will be substantially contemporaneous with the time or times in each year when water users receive crop returns and (2) if the contract be with an organization, that assessments or levies for the purpose of obtaining moneys sufficient to meet the organization's payments under said contract shall be made and shall become due and payable within a certain period or periods of time prior to the date or dates on which the organization's payments to the United States are due and payable, said period or periods of time to be agreed upon in each said contract.

The Secretary may provide such deferments of construction charges as in his judgment are necessary to prevent said requirements from resulting in inequitable pyramiding of payments of said charges.

(Aug. 4, 1939, ch. 418, § 5, 53 Stat. 1191.)

EXTENSION OF SECRETARY'S AUTHORITY TO ENTER INTO AMENDATORY CONTRACTS

Secretary's authority extended through Dec. 31, 1960, see section 485b–1 of this title.

### § 485e. Maintenance and operation of project works; delinquency penalties

In connection with any contract, relating to construction charges, entered into pursuant to the authority of this subchapter, the Secretary is authorized to require such provisions as he deems proper to secure the adoption of proper accounting, to protect the condition of project works and to provide for the proper use thereof, and to protect project lands against deterioration due to improper use of water. Any such contract shall require advance payment of adequate operation and maintenance charges. The Secretary is further authorized, in his discretion, to require such provisions as he deems proper to penalize delinquencies in payments of construction charges or operation and maintenance charges: *Provided*, That in any event there shall be penalties imposed on account of delinquencies of not less than one-half of 1 per centum per month of the delinquent charge from and after the date when such charge becomes due and payable: *Provided further*, That any such contract shall require that no water shall be delivered to lands or parties which are in arrears in the advance payment of operation and maintenance or toll charges, or to lands or parties which are in arrears for more than twelve months in the payment of construction charges due from such lands or parties to the United States or to the organization in which the lands or parties are included, or to any lands or parties included in an organization which is in arrears in the advance payment of operation and maintenance or toll charges or in arrears more than twelve months in the payment of construction charges due from such organization to the United States.

(Aug. 4, 1939, ch. 418, § 6, 53 Stat. 1191.)

### § 485f. Negotiation of equitable contracts by Secretary

#### (a) Existing project contract unit

The Secretary is authorized and directed to investigate the repayment problems of any existing project contract unit in connection with which, in his judgment, a contract under section 485b or 485c[1] of this title would not be practicable nor provide an economically sound adjustment, and to negotiate a contract which, in his judgment, both would provide fair and equitable treatment of the repayment problems in-

[1] See References in Text note below.

volved and would be in keeping with the general purpose of this subchapter.

**(b) New projects or projects under construction; public lands; development periods**

For any project, division of a project, development unit of a project, or supplemental works on a project, under construction on August 4, 1939, or for which appropriations had been made, and in connection with which a repayment contract had not been executed, allocations of costs may be made in accordance with the provisions of section 485h of this title and a repayment contract may be negotiated, in the discretion of the Secretary, (1) pursuant to the authority of subsection (a) of this section or (2) in accordance, as near as may be, with the provisions in section 485h(d) or 485h(e) of this title. In connection with any such project, division, or development unit, on which the majority of the lands involved are public lands of the United States, the Secretary, prior to entering into a repayment contract, may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first year in which water is delivered for the lands in said block: *Provided*, That in the event a development period is fixed prior to execution of a repayment contract, execution thereof shall be a condition precedent to delivery of water after the close of the development period. During any such development period water shall be delivered to the lands in the irrigation block involved only on a toll-charge basis, at a charge per annum per acre-foot to be fixed by the Secretary each year and to be collected in advance of delivery of water. Pending negotiation and execution of a repayment contract for any other such project, division, or development unit, water may be delivered for a period of not more than five years from August 4, 1939, on the same toll-charge basis. Any such toll charges collected and which the Secretary determines to be in excess of the cost of operation and maintenance during the toll-charge period shall be credited to the construction cost of the project in the manner determined by the Secretary.

**(c) Report of proposed contracts to Congress; approval; amendment after approval**

The Secretary from time to time shall report to the Congress on any proposed contracts negotiated pursuant to the authority of subsection (a) or (b)(1) of this section, and he may execute any such contract on behalf of the United States only after approval thereof has been given by Act of Congress. Contracts, so approved, however, may be amended from time to time by mutual agreement and without further approval by Congress if such amendments are within the scope of authority granted prior to or after April 24, 1945, to the Secretary under any Act, except that amendments providing for repayment of construction charges in a period of years longer than authorized by this subchapter, as it may be amended, shall be effective only when approved by Congress.

(Aug. 4, 1939, ch. 418, § 7, 53 Stat. 1192; Apr. 24, 1945, ch. 94, § 2, 59 Stat. 76.)

REFERENCES IN TEXT

Section 485c of this title, referred to in subsec. (a), was repealed by Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543.

AMENDMENTS

1945—Subsec. (c). Act Apr. 24, 1945, added second sentence.

EXTENSION OF SECRETARY'S AUTHORITY TO ENTER INTO AMENDATORY CONTRACTS

Secretary's authority extended through Dec. 31, 1960, see section 485b–1 of this title.

## § 485g. Classification of lands

**(a) Generally**

The Secretary is authorized and directed in the manner hereinafter provided to classify or to reclassify, from time to time but not more often than at five-year intervals, as to irrigability and productivity those lands which have been, are, or may be included within any project.

**(b) Necessity for request**

No classification or reclassification pursuant to the authority of this subchapter shall be undertaken unless a request therefor, by an organization or duly authorized representatives of the water users, in the form required by subsection (c) of this section has been made of the Secretary. The Secretary shall plan the classification work, undertaken pursuant to the authority of this section, in such manner as in his judgment will result in the most expeditious completion of the work.

**(c) Furnishing data**

In any request made to the Secretary for a land classification or reclassification under this section, the organization or representatives of the water users shall furnish a list of those lands which are considered to be of comparatively low productivity or to be nonproductive, and of those lands which are considered to be of greater or lesser productivity than indicated by existing classifications, if any, made pursuant to the Federal reclamation laws, and shall furnish also such data relating thereto as the Secretary by regulation may require.

**(d) Primary determination**

Upon receipt of any such request the Secretary shall make a preliminary determination whether the requested land classification or reclassification probably is justified by reason of the conditions of the lands involved and other pertinent conditions of the project, including its contractual relations with the United States.

**(e) Probable justification**

If the Secretary finds probable justification and if the advance to the United States hereinafter required is made, he shall undertake as soon as practicable the classification or reclassification of the lands listed in the request, and of any other lands which have been, are, or may be included within the project involved and which in his judgment should be classified or reclassified.

**(f) Expenses**

One-half of the expense involved in any classification work undertaken pursuant to this sec-

tion shall be charged to operation and maintenance administration nonreimbursable; and one-half shall be paid in advance by the organization involved. On determining probable justification for the requested classification or reclassification as provided in this section, the Secretary shall estimate the cost of the work involved and shall submit a statement of the estimated cost to said organization. Said organization, before commencement of the work, shall advance to the United States one-half of the amount set forth in said statement and also shall advance one-half of the amount of supplementary estimates of costs which the Secretary may find it necessary to make from time to time during the progress of the work; and said amounts shall be and remain available for expenditure by the Secretary for the purposes for which they are advanced, until the work is completed or abandoned. After completion or abandonment of the work, the Secretary, shall determine the actual costs thereof; and said organization shall pay any additional amount required to make its total payments hereunder equal to one-half of the actual cost or shall be credited with any amount by which advances made by it exceed one-half of said actual cost, as the case may be.

**(g) Classification as prerequisite to contract**

If in the judgment of the Secretary a classification or reclassification pursuant to the provisions of this section is a necessary preliminary to entering into a contract under section 485b or 485c[1] of this title, he may require the same as a condition precedent to entering into such a contract.

**(h) Modification of existing obligations**

No modification of any existing obligation to pay construction charges on any project shall be made by reason of any classification or reclassification undertaken pursuant to this section without express authority therefor granted by Congress upon recommendations of the Secretary made in a report under subsection (f) of this section.

(Aug. 4, 1939, ch. 418, § 8, 53 Stat. 1192; Pub. L. 93–608, § 1(18), Jan. 2, 1975, 88 Stat. 1970.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in subsec. (c), are defined in section 485a of this title.

Section 485c of this title, referred to in subsec. (g), was repealed by Pub. L. 85–611, § 3, Aug. 8, 1958, 72 Stat. 543.

AMENDMENTS

1975—Subsecs. (f) to (i). Pub. L. 93–608 redesignated subsecs. (g) to (i) as (f) to (h), respectively. Former subsec. (f), which required a report to Congress by the Secretary on classifications and reclassifications or project lands, was struck out.

## § 485h. New projects; sale of water and electric power; lease of power privileges

**(a) Findings of Secretary**

No expenditures for the construction of any new project, new division of a project, or new supplemental works on a project shall be made, nor shall estimates be submitted therefor, by the Secretary until after he has made an investigation thereof and has submitted to the President and to the Congress his report and findings on—

(1) the engineering feasibility of the proposed construction;

(2) the estimated cost of the proposed construction;

(3) the part of the estimated cost which can properly be allocated to irrigation and probably be repaid by the water users;

(4) the part of the estimated cost which can properly be allocated to power and probably be returned to the United States in net power revenues;

(5) the part of the estimated cost which can properly be allocated to municipal water supply or other miscellaneous purposes and probably be returned to the United States.

If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper, together with any allocation to flood control or navigation made under subsection (b) of this section, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary. If all such allocations do not equal said total estimated cost, then said new project, new division, or new supplemental works may be undertaken by the Secretary only after provision therefor has been made by Act of Congress enacted after the Secretary has submitted to the President and the Congress the report and findings involved.

**(b) Allocation of part of cost to flood control or navigation**

In connection with any new project, new division of a project, or supplemental works on a project there may be allocated to flood control or navigation the part of said total estimated cost which the Secretary may find to be proper. Items for any such allocations made in connection with projects which may be undertaken pursuant to subsection (a) of this section shall be included in the estimates of appropriations submitted by the Secretary for said projects, and funds for such portions of the projects shall not become available except as directly appropriated or allotted to the Department of the Interior. In connection with the making of such an allocation, the Secretary shall consult with the Chief of Engineers and the Secretary of the Army, and may perform any of the necessary investigations or studies under a cooperative agreement with the Secretary of the Army. In the event of such an allocation the Secretary of the Interior shall operate the project for purposes of flood control or navigation, to the extent justified by said allocation therefor.

**(c) Furnishing water to municipalities; sale of electric power; lease of power privileges**

The Secretary is authorized to enter into contracts to furnish water for municipal water sup-

[1] See References in Text note below.

ply or miscellaneous purposes: *Provided*, That any such contract either (1) shall require repayment to the United States, over a period of not to exceed forty years from the year in which water is first delivered for the use of the contracting party, with interest not exceeding the rate of 3½ per centum per annum if the Secretary determines an interest charge to be proper, of an appropriate share as determined by the Secretary of that part of the construction costs allocated by him to municipal water supply or other miscellaneous purposes; or (2) shall be for such periods, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, and shall require the payment of said rates each year in advance of delivery of water for said year. Any sale of electric power or lease of power privileges, made by the Secretary in connection with the operation of any project or division of a project, shall be for such periods, not to exceed forty years, and at such rates as in his judgment will produce power revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost, interest on an appropriate share of the construction investment at not less than 3 per centum per annum, and such other fixed charges as the Secretary deems proper: *Provided further*, That in said sales or leases preference shall be given to municipalities and other public corporations or agencies; and also to cooperatives and other nonprofit organizations financed in whole or in part by loans made pursuant to the Rural Electrification Act of 1936 [7 U.S.C. 901 et seq.]. Nothing in this subsection shall be applicable to provisions in existing contracts, made pursuant to law, for the use of power and miscellaneous revenues of a project for the benefit of users of water from such project. The provisions of this subsection respecting the terms of sales of electric power and leases of power privileges shall be in addition and alternative to any authority in existing laws relating to particular projects. No contract relating to municipal water supply or miscellaneous purposes or to electric power or power privileges shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes.

**(d) Delivery of water for irrigation; repayment contract prerequisites**

No water may be delivered for irrigation of lands in connection with any new project, new division of a project, or supplemental works on a project until an organization, satisfactory in form and powers to the Secretary, has entered into a repayment contract with the United States, in a form satisfactory to the Secretary, providing among other things—

(1) That the Secretary may fix a development period for each irrigation block, if any, of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said block; and that during the development period water shall be delivered to the lands in the irrigation block involved at a charge per annum per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water: *Provided*, That where the lands included in an irrigation block are for the most part lands owned by the United States, the Secretary, prior to execution of a repayment contract, may fix a development period, but in such case execution of such a contract shall be a condition precedent to delivery of water after the close of the development period: *Provided further*, That when the Secretary, by contract or by notice given thereunder, shall have fixed a development period of less than ten years, and at any time thereafter but before commencement of the repayment period conditions arise which in the judgment of the Secretary would have justified the fixing of a longer period, he may amend such contract or notice to extend such development period to a date not to exceed ten years from its commencement, and in a case where no development period was provided, he may amend such contract within the same limits: *Provided further*, That when the Secretary shall have deferred the payment of all or any part of any installments of construction charges under any repayment contract pursuant to the authority of the Act of September 21, 1959 (73 Stat. 584), he may, at any time prior to the due date prescribed for the first installment not reduced by such deferment, and by agreement with the contracting organization, terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section. After the close of the development period, any such charges collected and which the Secretary determines to be in excess of the cost of the operation and maintenance during the development period shall be credited to the construction cost of the project in the manner determined by the Secretary.

(2) That the part of the construction costs allocated by the Secretary to irrigation shall be included in a general repayment obligation of the organization; and that the organization may vary its distribution of construction charges in a manner that takes into account the productivity of the various classes of lands and the benefits accruing to the lands by reason of the construction: *Provided*, That no distribution of construction charges over the lands included in the organization shall in any manner be deemed to relieve the organization or any party or any land therein of the organization's general obligation to the United States.

(3) That the general repayment obligation of the organization shall be spread in annual installments, of the number and amounts fixed by the Secretary, over a period of not more than 40 years, exclusive of any development period fixed under paragraph (1) of this subsection, for any project contract unit or, if the project contract unit be divided into two or more irrigation blocks, for any such block, or as near to said period of not more than forty years as is consistent with the adoption and operation of a variable payment formula

which, being based on full repayment within such period under average conditions, permits variance in the required annual payments in the light of economic factors pertinent to the ability of the organization to pay.

(4) That the first annual installment for any project contract unit, or for any irrigation block, as the case may be, shall accrue, on the date fixed by the Secretary, in the year after the last year of the development period or, if there be not development period, in the calendar year after the Secretary announces that the construction contemplated in the repayment contract is substantially completed or is advanced to a point where delivery of water can be made to substantially all of the lands in said unit or block to be irrigated; and if there be no development period fixed, that prior to and including the year in which the Secretary makes said announcement water shall be delivered only on the toll charge basis hereinbefore provided for development periods.

**(e) Contracts to furnish water**

In lieu of entering into a repayment contract pursuant to the provisions of subsection (d) of this section to cover that part of the cost of the construction of works connected with water supply and allocated to irrigation, the Secretary, in his discretion, may enter into either short- or long-term contracts to furnish water for irrigation purposes. Each such contract shall be for such period, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, due consideration being given to that part of the cost of construction of works connected with water supply and allocated to irrigation; and shall require payment of said rates each year in advance of delivery of water for said year. In the event such contracts are made for furnishing water for irrigation purposes, the costs of any irrigation water distribution works constructed by the United States in connection with the new project, new division of a project, or supplemental works on a project, shall be covered by a repayment contract entered into pursuant to subsection (d) of this section.

**(f) Public participation**

No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of irrigation water (except any contract for the delivery of surplus or interim irrigation water whose duration is for one year or less) the Secretary shall—

(1) publish notice of the proposed contract or amendment in newspapers of general circulation in the affected area and shall make reasonable efforts to otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.

(Aug. 4, 1939, ch. 418, § 9, 53 Stat. 1193; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 85–611, §§ 1, 3, Aug. 8, 1958, 72 Stat. 542, 543; Pub. L. 87–613, § 2, Aug. 28, 1962, 76 Stat. 407; Pub. L. 97–293, title II, § 226, Oct. 12, 1982, 96 Stat. 1273.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (c), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

Act of September 21, 1959, referred to in subsec. (d)(1), is Pub. L. 86–308, Sept. 21, 1959, 73 Stat. 584, which amended section 485b–1 of this title, enacted provisions set out as a note under section 485b–1 of this title, and amended provisions set out as a note under section 485b of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1982—Subsec. (f). Pub. L. 97–293 added subsec. (f).

1962—Subsec. (d)(1). Pub. L. 87–613 authorized the Secretary, when a development period of less than ten years was fixed by contract and, before repayment period conditions arose which would justify a longer period, to amend such contract to extend such period to not exceed ten years from its start, and where no period was provided, to grant a period not to exceed ten years, and where he deferred payment of any construction charges pursuant to act of September 21, 1959, authorized him, prior to the due date of the first installment not reduced by such deferment, by agreement with the contracting organization, to terminate the supplemental contract by which such deferment was effected, credit the construction payments made, and exercise the authority granted in this section.

1958—Subsec. (d)(3). Pub. L. 85–611, § 1, permitted the general repayment obligation to be spread in annual installments as near to the period of not more than 40 years as is consistent with the adoption and operation of a variable payment formula which permits variance in the required annual payments.

Subsec. (d)(5). Pub. L. 85–611, § 3, struck out provisions which required repayment contracts to provide that each year the installment of the organization's repayment obligation scheduled for such year shall be the construction charges due and payable for such year, or that each year the installment for such year of the organization's repayment obligation shall be increased or decreased on the basis of the normal and percentages plan provided in former section 485c of this title for modification of existing obligations to pay construction charges, and the amount of the annual installment, as thus increased or decreased, shall be the construction charges due and payable for such year.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

CONSTRUCTION WITH SECTION 101–1 OF TITLE 33

Section as amended and modified by act Dec. 22, 1944, ch. 665, § 1(c), 58 Stat. 665, see section 701–1(c) of Title 33, Navigation and Navigable Waters.

MUNICIPAL, DOMESTIC, AND INDUSTRIAL WATER SUPPLY CONTRACTS; RENEWALS; CONFORMING AMENDMENTS TO EXISTING CONTRACTS; "LONG-TERM CONTRACT" DEFINED

Pub. L. 88–44, June 21, 1963, 77 Stat. 68, provided: "That the Secretary of the Interior shall, upon request

of the other party to any long-term contract for municipal, domestic, or industrial water supply hereafter entered into under clause (2) in the proviso to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 (53 Stat. 1195, 43 U.S.C. 485h), include provision for renewal thereof subject to renegotiation of (1) the charges set forth in the contract in the light of circumstances prevailing at the time of renewal and (2) any other matters with respect to which the right to renegotiate is reserved in the contract. Any right of renewal shall be exercised within such reasonable time prior to the expiration of the contract as the parties shall have agreed upon and set forth therein.

''SEC. 2. The Secretary shall also, upon like request, provide in any such long-term contract or in any contract entered into under clause (1) of the proviso aforesaid that the other party to the contract shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right for the purposes stated in the contract (to which right the holders of any other type of contract for municipal, domestic, or industrial water supply shall be subordinate) to a stated share or quantity of the project's water supply available for municipal, domestic, or industrial use.

''SEC. 3. The Secretary is hereby authorized, upon request by the other party, to negotiate amendments to existing contracts entered into pursuant to the first sentence of section 9, subsection (c), of the Reclamation Project Act of 1939 [subsec. (c) of this section] to conform said contracts to the provisions of this Act.

''SEC. 4. As used in this Act, the term 'long-term contract' means any contract the term of which is more than ten years.''

EXTENSION OF VARIABLE PAYMENT PLAN TO OTHER ORGANIZATIONS

Section 2 of Pub. L. 85–611 provided that: ''The benefits of a variable payment plan as provided in the amendment to paragraph (3) of section 9, subsection (d), of the Reclamation Project Act of 1939 [subsec. (d)(3) of this section] contained in section 1 of this Act may be extended by the Secretary to any organization with which he contracts or has contracted for the repayment of construction costs allocated to irrigation on any project undertaken by the United States, including contracts under the Act of August 11, 1939 (53 Stat. 1418), as amended [section 590y et seq. of Title 16, Conservation], and contracts for the storage of water or for the use of stored water under section 8 of the Act of December 22, 1944 (58 Stat. 887, 891) [section 390 of this title]. In the case of any project for which a maximum repayment period longer than that prescribed in said paragraph (3) has been or is allowed by Act of Congress, the period so allowed may be used by the Secretary in lieu of the forty-year period provided in said amendment to paragraph (3).''

## § 485h–1. Administration of repayment contracts and long-term contracts to furnish water; renewal and conversion; credit for payments; right to available water supply; rates; construction component

In administering subsections (d) and (e) of section 485h of this title, the Secretary of the Interior shall—

(1) include in any long-term contract hereafter entered into under subsection (e) of section 485h of this title provision, if the other contracting party so requests, for renewal thereof under stated terms and conditions mutually agreeable to the parties. Such terms and conditions shall provide for an increase or decrease in the charges set forth in the contract to reflect, among other things, increases or decreases in construction, operation, and maintenance costs and improvement or deterioration in the party's repayment capacity. Any right of renewal shall be exercised within such reasonable time prior to the expiration of the contract as the parties shall have agreed upon and set forth therein;

(2) include in any long-term contract hereafter entered into under subsection (e) of section 485h of this title with a contracting organization provision, if the organization so requests, for conversion of said contract, under stated terms and conditions mutually agreeable to the parties, to a contract under subsection (d) of section 485h of this title at such time as, account being taken of the amount credited to return by the organization as hereinafter provided, the remaining amount of construction cost which is properly assignable for ultimate return by it can probably be repaid to the United States within the term of a contract under subsection (d) of section 485h of this title;

(3) credit each year to every party which has entered into or which shall enter into a long-term contract pursuant to subsection (e) of section 485h of this title so much of the amount paid by said party on or before the due date as is in excess of the share of the operation and maintenance costs of the project which the Secretary finds is properly chargeable to that party. Credit for payments heretofore made under any such contract shall be established by the Secretary as soon after July 2, 1956 as it is feasible for him to do so. After the sum of such credits is equal to the amount which would have been for repayment by the party if a repayment contract under subsection (d) of section 485h of this title had been entered into, which amount shall be established by the Secretary upon completion of the project concerned or as far in advance thereof as is feasible, no construction component shall be included in any charges made for the furnishing of water to the contracting party and any charges theretofore fixed by contract or otherwise shall be reduced accordingly;

(4) provide that the other party to any contract entered into pursuant to subsection (d) of section 485h of this title or to any long-term contract entered into pursuant to subsection (e) of section 485h of this title shall, during the term of the contract and of any renewal thereof and subject to fulfillment of all obligations thereunder, have a first right (to which right the rights of the holders of any other type of irrigation water contract shall be subordinate) to a stated share or quantity of the project's available water supply for beneficial use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right to such share or quantity upon completion of payment of the amount assigned for ultimate return by the party subject to payment of an appropriate share of such costs, if any, as may thereafter be incurred by the United States in its operation and maintenance of the project works; and[1]

[1] So in original. The word ''and'' probably should not appear.

(5) Provide[2] for payment of rates under any contract entered into pursuant to said subsection (e) in advance of delivery of water on an annual, semiannual, bimonthly, or monthly basis as specified in the contract.[3]

(6) include a reasonable construction component in the rates set out in any long-term contract hereafter entered into under subsection (e) of section 485h of this title prior to amortization of that part of the cost of constructing the project which is assigned to be repaid by the contracting party.

(July 2, 1956, ch. 492, § 1, 70 Stat. 483; Pub. L. 96–375, § 8, Oct. 3, 1980, 94 Stat. 1507.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

AMENDMENTS

1980—Cl. (5). Pub. L. 96–375 authorized payments on a bimonthly and monthly basis.

### § 485h–2. Amendments to existing contracts

The Secretary is authorized to negotiate amendments to existing contracts entered into pursuant to subsection (e) of section 485h of this title to conform said contracts to the provisions of sections 485h–1 to 485h–5 of this title.

(July 2, 1956, ch. 492, § 2, 70 Stat. 484.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485h–3. "Long-term contract" defined

As used in sections 485h–1 to 485h–5 of this title, the term ''long-term contract'' shall mean any contract the term of which is more than ten years.

(July 2, 1956, ch. 492, § 3, 70 Stat. 484.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485h–4. Application of State laws

Nothing in sections 485h–1 to 485h–5 of this title shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary in carrying out the provisions of such sections, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of such sections shall be appurtenant to the land irrigated and beneficial use shall be the basis, the measure, and the limit of the right.

(July 2, 1956, ch. 492, § 4, 70 Stat. 484.)

[2] So in original. Probably should not be capitalized.

[3] So in original. The period probably should be ''; and''.

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485h–5. Supplement to Federal reclamation laws

Sections 485h–1 to 485h–5 of this title shall be a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto).

(July 2, 1956, ch. 492, § 5, 70 Stat. 484.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485h–6. Repayment contracts; amendment for provision, addition or modification of irrigation blocks

After the execution of a contract pursuant to the authority of section 9(d)(1) of the Reclamation Project Act of 1939 [43 U.S.C. 485h(d)(1)] and prior to the commencement of the development period provided thereunder, the Secretary of the Interior is authorized to amend such contract to provide for irrigation blocks, or if such are already provided, to add to or modify such irrigation blocks, as he shall deem desirable to carry out the purposes of that Act.

(Pub. L. 87–613, § 1, Aug. 28, 1962, 76 Stat. 407.)

REFERENCES IN TEXT

That Act, referred to in text, means act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, which enacted this subchapter, sections 375a, 380a, and 387 to 389 of this title and section 16d of former Title 41, Public Contracts, and enacted provision set out as a note under section 485j of this title. For complete classification of this Act to the Code, see section 485k of this title and Tables.

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485h–7. Amendment of repayment contract for payment of annual installments in two parts

In any repayment contract which provides for payment of construction charges by single annual installments, the Secretary may by agreement with the contracting organization amend such contract to provide for the payment of such annual installments in two parts on such dates in the calendar year as may best enable the contracting organization to meet its payments.

(Pub. L. 87–613, § 3, Aug. 28, 1962, 76 Stat. 408.)

CODIFICATION

Section was not enacted as part of the Reclamation Project Act of 1939 which comprises this subchapter.

### § 485i. Rules and regulations

The Secretary is authorized to perform any and all acts and to make such rules and regula-

tions as may be necessary and proper for the purpose of carrying the provisions of this subchapter into full force and effect.

(Aug. 4, 1939, ch. 418, § 15, 53 Stat. 1198.)

### § 485j. Effect on existing laws

The provisions of previous Acts of Congress not inconsistent with the provisions of this subchapter shall remain in full force and effect.

(Aug. 4, 1939, ch. 418, § 16, 53 Stat. 1198.)

CONSTRUCTION WITH OTHER LAWS

Section 18 of act Aug. 4, 1939, provided: ''Nothing in this Act [see section 485k of this title] shall be construed to amend the Boulder Canyon Project Act (45 Stat. 1057), as amended [section 617 et seq. of this title].''

### § 485k. Short title

This subchapter may be cited as the ''Reclamation Project Act of 1939.''

(Aug. 4, 1939, ch. 418, § 19, 53 Stat. 1198.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this Act'', meaning act Aug. 4, 1939, ch. 418, 53 Stat. 1187, as amended, which enacted this subchapter, sections 375a, 380a, and 387 to 389 of this title and section 16d of former Title 41, Public Contracts, and enacted provision set out as a note under section 485j of this title. For complete classification of this Act to the Code, see Tables.

## SUBCHAPTER XI—MAINTENANCE AND OPERATION OF WORKS GENERALLY

### § 491. Authority of Secretary to operate works

The Secretary of the Interior is authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this Act.

(June 17, 1902, ch. 1093, § 6, 32 Stat. 389.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of part of section 6 of act June 17, 1902. Remainder of such section 6 is classified to section 498 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 492. Operation and maintenance charges generally

In addition to the construction charge, every water-right applicant, entryman, or landowner under or upon a reclamation project shall also pay, whenever water service is available for the irrigation of his land, an operation and maintenance charge based upon the total cost of operation and maintenance of the project, or each separate unit thereof, and such charge shall be made for each acre-foot of water delivered; but each acre of irrigable land, whether irrigated or not, shall be charged with a minimum operation and maintenance charge based upon the charge for delivery of not less than one acre-foot of water. If the total amount of operation and maintenance charges and penalties collected for any one irrigation season on any project shall exceed the cost of operation and maintenance of the project during that irrigation season, the balance shall be applied to a reduction of the charge on the project for the next irrigation season, and any deficit incurred may likewise be added to the charge for the next irrigation season.

(Aug. 13, 1914, ch. 247, § 5, 38 Stat. 687.)

CODIFICATION

Section is comprised of part of first sentence and second sentence of section 5 of act Aug. 13, 1914. Remainder of first sentence of such section is classified to section 499 of this title.

### § 493. Operation charges; date of payment; discount; advance payment

All operation and maintenance charges upon projects existing prior to December 5, 1924, shall become due and payable on the date fixed for each project by the Secretary of the Interior, and if such charge is paid on or before the date when due there shall be a discount of 5 per centum of such charge.

All contracts providing for new projects and new divisions of projects approved after December 5, 1924, shall require that all operation and maintenance charges shall be payable in advance. In each case where the care, operation, and maintenance of a project or division of a project are transferred to the water users the contract shall require the payment of operation and maintenance charges in advance. Whenever an adjustment of water charges is made under sections 371, 376, 377, 412, 417, 433, 438,[1] 462, 463,[1] 466, 467,[1] 473,[1] 474,[1] 478, 493, 494, 500, 501 and 526 of this title the adjustment contract shall provide that thereafter all operation and maintenance charges shall be payable in advance.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688; Dec. 5, 1924, ch. 4, § 4, subsec. N, 43 Stat. 704.)

REFERENCES IN TEXT

Section 438 of this title, referred to in text, was repealed by act Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568.

Sections 463, 467, 473, and 474 of this title, referred to in text, were repealed by act May 25, 1926, ch. 383, § 47, 44 Stat. 650.

CODIFICATION

First paragraph of this section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 494, and 495 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

Second paragraph of this section is from act Dec. 5, 1924.

Language was inserted in the first paragraph of this section limiting it to projects existing prior to Dec. 5, 1924, to avoid conflict with second paragraph applicable to projects after Dec. 5, 1924.

[1] See References in Text note below.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 493a. Omitted

CODIFICATION

Section, act May 10, 1926, ch. 277, 44 Stat. 479, authorized Secretary of the Interior, until June 30, 1927, to extend time for payment of charges for period not exceeding 5 years.

### § 494. Pecuniary penalty for nonpayment of operation charge

If any operation or maintenance charge is unpaid on the 1st day of the third calendar month after it became due a penalty of 1 per centum of the amount unpaid shall be added thereto, and thereafter an additional penalty of one-half of 1 per centum of the amount unpaid shall be added on the 1st day of each calendar month if such charge and penalties shall remain unpaid.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688; Dec. 5, 1924, ch. 4, § 4, subsec. H, 43 Stat. 703.)

CODIFICATION

Section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 493 and 495 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

Act Dec. 5, 1924, reduced the additional penalty from 1 per centum to one-half of 1 per centum.

### § 495. Shutting off water for nonpayment of operation charge

No water shall be delivered to the lands of any water-right applicant or entryman who shall be in arrears for more than one calendar year for the payment of any charge for operation and maintenance.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of part of first sentence of section 6 of act Aug. 13, 1914. Remainder of first sentence of such section 6 is classified to sections 479, 493 and 494 of this title; second and third sentences of such section 6 are classified to sections 496 and 497 of this title, respectively.

### § 496. Cancellation of entry or water right for nonpayment of operation charge

If any water-right applicant or entryman shall be one year in arrears in the payment of any charge for operation and maintenance and penalties, or any part thereof, his water-right application, and if he be a homestead entryman his entry also, shall be subject to cancellation, and all payments made by him forfeited to the reclamation fund, but no homestead entry shall be subject to contest because of such arrears.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of second sentence of section 6 of act Aug. 13, 1914. First and third sentences of such section 6 are classified to sections 479, 493, 494, 495, 497 of this title, respectively.

### § 497. Action to recover operation charge and penalty

In the discretion of the Secretary of the Interior suit or action may be brought for the amounts of operation or maintenance charges in default and penalties in like manner as provided in section 481 of this title.

(Aug. 13, 1914, ch. 247, § 6, 38 Stat. 688.)

CODIFICATION

Section is comprised of third sentence of section 6 of act Aug. 13, 1914. First and second sentences of such section 6 are classified to sections 479, 493, 494, 495, and 496 of this title, respectively.

### § 498. Transfer of management and operation of works to water users generally

When the payments required by this Act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior; *Provided*, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress.

(June 17, 1902, ch. 1093, § 6, 32 Stat. 389.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 17, 1902, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section is comprised of part of section 6 of act June 17, 1902. Remainder of such section 6 is classified to section 491 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 499. Discretionary power to transfer management

Whenever any legally organized water-users' association or irrigation district shall so request, the Secretary of the Interior is authorized, in his discretion, to transfer to such water-users' association or irrigation district the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as he may prescribe.

(Aug. 13, 1914, ch. 247, § 5, 38 Stat. 687.)

CODIFICATION

Section is comprised of part of first sentence of section 5 of act Aug. 13, 1914. Remainder of first sentence and second sentence of such section 5 are classified to section 492 of this title.

### § 499a. Transfer of title to movable property; use of appropriations

Whenever an irrigation district, municipality, or water users' organization assumes operation

and maintenance of works constructed to furnish or distribute a water supply pursuant to a contract entered into with the United States in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior may transfer to said district, municipality, or organization title to movable property which has been purchased with funds advanced by the district, municipality, or organization or which, in the case of property purchased with appropriated funds, is necessary to the operation and maintenance of such works and the value of which is to be repaid under a contract with the district, municipality, or organization. In order to encourage the assumption by irrigation districts, municipalities, and water users' organizations of the operation and maintenance of works constructed to furnish or distribute a water supply, the Secretary is authorized to use appropriated funds available for the project involved to acquire movable property for transfer under the terms and conditions hereinbefore provided, at the time operation and maintenance is assumed.

(July 29, 1954, ch. 616, 68 Stat. 580; Aug. 2, 1956, ch. 884, 70 Stat. 940; Pub. L. 89–48, § 1, June 24, 1965, 79 Stat. 172.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1965—Pub. L. 89–48, which directed that section 1 of the Act of July 29, 1954, be amended generally, was executed by amending generally this section which comprised all of the Act of July 29, 1954, as the probable intent of Congress, notwithstanding that such Act did not have any section designations. Prior to amendment, this section read as follows: "Whenever an irrigation district or water users' organization assumes operation and maintenance of irrigation works pursuant to a contract entered into with the United States in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Secretary of the Interior may transfer to said district or organization title to movable property which has been purchased with funds advanced by the district or organization or which, in the case of property purchased with appropriated funds, is necessary to the operation and maintenance of such works and the value of which is to be repaid under a contract with the district or organization. In order to encourage the assumption by irrigation districts and water users' organizations of the operation and maintenance of irrigation works, the Secretary is authorized to use appropriated funds available for the project involved to acquire movable property for transfer at the time operation and maintenance is assumed under the terms and conditions hereinbefore provided."

1956—Act Aug. 2, 1956, authorized Secretary to use appropriated funds for a project to acquire movable property for transfer to irrigation districts and other water users' organizations to encourage them to take over operation and maintenance of reclamation projects as soon as they are completed.

SHORT TITLE

This section is popularly known as the "Title to Movable Property Act".

### § 499b. Transfer to municipal corporations or other organizations of care, operation, and maintenance of works supplying water for municipal, domestic, or industrial use

Whenever a municipal corporation or other organization to which water for municipal, domestic, or industrial use is furnished or distributed under a contract entered into with the United States pursuant to the Federal reclamation laws so requests, the Secretary of the Interior is authorized to transfer to it or its nominee the care, operation, and maintenance of the works by which such water supply is made available or such part of those works as, in his judgment, is appropriate in the circumstances, subject to such terms and conditions as he may prescribe.

(Pub. L. 89–48, § 2, June 24, 1965, 79 Stat. 172.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, probably means the Act of June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, and Acts amendatory thereof or supplementary thereto. The Act of June 17, 1902, is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 500. Duty of association or district to take over management

Whenever two-thirds of the irrigable area of any project, or division of a project, shall be covered by water-right contracts between the water users and the United States, said project shall be required, as a condition precedent to receiving the benefits of sections 371, 376, 377, 412, 417, 433, 438,[1] 462, 463,[1] 466, 467,[1] 473,[1] 474,[1] 478, 493, 494, 500, 501, and 526 of this title to take over, through a legally organized water-users' association or irrigation district, the care, operation, and maintenance of all or any part of the project works, subject to such rules and regulations as the Secretary may prescribe, and thereafter the United States, in its relation to said project, shall deal with a water users' association or irrigation district, and when the water users assume control of a project, the operation and maintenance charges for the year then current shall be covered into the construction account to be repaid as part of the construction repayments.

(Dec. 5, 1924, ch. 4, § 4, subsec. G, 43 Stat. 702.)

REFERENCES IN TEXT

Section 438 of this title, referred to in text, was repealed by act Aug. 13, 1953, ch. 428, § 10, 67 Stat. 568.

Sections 463, 467, 473, and 474 of this title, referred to in text, were repealed by act May 25, 1926, ch. 383, § 47, 44 Stat. 650.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 501. Disposition of profits of project taken over by water users

Whenever the water users take over the care, operation, and maintenance of a project, or a di-

[1] See References in Text note below.

vision of a project, the total accumulated net profits, as determined by the Secretary, derived from the operation of project power plants, leasing of project grazing and farm lands, and the sale or use of town sites shall be credited to the construction charge of the project, or a division thereof, and thereafter the net profits from such sources may be used by the water users to be credited annually, first, on account of project construction charge, second, on account of project operation and maintenance charge, and third, as the water users may direct. No distribution to individual water users shall be made out of any such profits before all obligations to the Government shall have been fully paid.

(Dec. 5, 1924, ch. 4, § 4, subsec. I, 43 Stat. 703.)

DEFINITIONS

The definitions in section 371 of this title apply to this section.

### § 502. Emergency fund to assure continuous operation of projects and project facilities governed by Federal reclamation law

In order to assure continuous operation of all projects and project facilities governed by the Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) [43 U.S.C. 422a et seq.] or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), there is hereby authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions.

(June 26, 1948, ch. 676, § 1, 62 Stat. 1052; Pub. L. 97–275, Oct. 1, 1982, 96 Stat. 1185.)

REFERENCES IN TEXT

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

The Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto), referred to in text, probably means act July 4, 1955, ch. 271, 69 Stat. 244, as amended, which is classified generally to sections 421a to 421h of this title. Act May 14, 1956, ch. 268, 70 Stat. 155, amended section 421c of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1982—Pub. L. 97–275 substituted ''all projects and project facilities governed by the Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), including any project and facilities constructed with funds provided by the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof or supplementary thereto) or with funds provided by the Distribution System Loans Act (Act of May 14, 1956, 69 Stat. 244, and Acts amendatory thereof or supplementary thereto)'' for ''irrigation or power systems operated and maintained by the Bureau of Reclamation, Department of the Interior''.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

EMERGENCY DROUGHT AUTHORITY

Pub. L. 100–387, title IV, subtitle B, Aug. 11, 1988, 102 Stat. 957, provided that:

''PART 1—RECLAMATION STATES DROUGHT ASSISTANCE

''SEC. 411. SHORT TITLE.

''This part may be cited as the 'Reclamation States Drought Assistance Act of 1988'.

''SEC. 412. ASSISTANCE DURING DROUGHT.

''The Secretary of the Interior, acting under the authorities of the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388) [see Short Title note under section 371 of this title], and Acts supplementary thereto and amendatory thereof) and other appropriate authorities of the Secretary shall—

''(1)(A) perform studies to identify opportunities to augment, make use of, or conserve water supplies available to Federal reclamation projects and Indian water resource developments, which studies shall be completed no later than March 1, 1990; and

''(B) consistent with existing contractual arrangements and State law, and without further authorization, undertake construction, management, and conservation activities that will mitigate or can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, or 1989, which construction shall be completed by December 31, 1989; and

''(2) assist willing buyers in their purchase of available water supplies from willing sellers and redistribute such water based upon priorities to be determined by the Secretary consistent with State law, with the objective of minimizing losses and damages resulting from drought conditions in 1987, 1988, and 1989.

''SEC. 413. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

''(a) GENERAL AUTHORITY.—The Secretary of the Interior may make available, by contract, consistent with existing contracts or agreements and State law, water or canal capacity at existing Federal reclamation projects to water users and others, on a temporary basis to mitigate losses and damages resulting from drought conditions in 1987, 1988, and 1989.

''(b) CONTRACTS.—Any contract signed under this section shall provide that—

''(1) the price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs, and an appropriate share of capital costs, except that, for water delivered to a landholding in excess of 960 acres of class I lands or the equivalent thereof for a qualified recipient and 320 acres of class I lands or the equivalent thereof for a limited recipient, the cost of such water shall be full cost (as defined in section 202(3)(A) of Public Law 97–293, 43 U.S.C. 390bb) for those acres in excess of 960 acres or 320 acres, as appropriate;

''(2) the lands not now subject to reclamation law that receive temporary irrigation water supplies

under this section shall not become subject to the ownership limitations of Federal reclamation law because of the delivery of such temporary water supplies;

''(3) the lands that are subject to the ownership limitations of Federal reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies; and

''(4) the contract shall terminate no later than December 31, 1989.

''(c) FISH AND WILDLIFE.—The Secretary may make available water for the purposes of protecting fish and wildlife resources, including mitigating losses that occur as a result of drought conditions.

''SEC. 414. EMERGENCY LOAN PROGRAM.

''The Secretary of the Interior may make loans to water users for the purposes of undertaking 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 resulting from drought conditions in 1987, 1988, and 1989. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate. Section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97–293; 43 U.S.C. 390cc) shall not apply to any contract to repay such loan.

''SEC. 415. INTERAGENCY COORDINATION.

''The program established by this part, to the extent practicable, shall be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary of the Interior shall consult such other Federal and State agencies as he deems necessary. Other Federal agencies performing relief functions under other Federal authorities shall provide the Secretary with information and records that the Secretary deems necessary for the administration of this part.

''SEC. 416. REPORT.

''Not later than March 1, 1990, the Secretary of the Interior shall submit a report and recommendations to the President and Congress on—

''(1) expenditures and accomplishments under this part;

''(2) legislative and administrative recommendations for responding to droughts and drought related problems in the Reclamation States; and

''(3) structural and non-structural measures to mitigate the effects of droughts.

''SEC. 417. CARRYOVER STORAGE AND WATER, NEW MELONES UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA.

''The first undesignated paragraph under the heading 'San Joaquin River Basin' in section 203 of the Flood Control Act of 1962 (Public Law 87–874, 76 Stat. 1191) is amended by inserting before the last period the following: ': *And provided further*, That the Secretary of the Interior is authorized to make available to the Oakdale and South San Joaquin irrigation districts, at the current contract rate, unallocated storage of such districts carried over from the previous year'.

''SEC. 418. INITIATION AND DEADLINE OF EMERGENCY DROUGHT PROGRAM.

''(a) LIMITATION.—The programs and authorities established under this part shall become operative in any Reclamation State only after—

''(1) the Governor of that State has declared a drought emergency; and

''(2) the affected area is declared eligible for Federal disaster relief under applicable rules and regulations.

''(b) TERMINATION.—The programs and authorities established under this part shall terminate on December 31, 1989, unless otherwise specifically stated.

''PART 2—WATER PROJECT

''SEC. 421. CENTRAL VALLEY PROJECT WATER RELEASES.

''The Secretary of the Interior is authorized to install a temperature control curtain as a demonstration project at Shasta Dam, Central Valley project, California, at a cost not to exceed $5,500,000. The purpose of the demonstration project is to determine the effectiveness of the temperature control curtain in controlling the temperature of water releases from Shasta Dam, so as to protect and enhance anadromous fisheries in the Sacramento River and San Francisco Bay/Sacramento-San Joaquin Delta and Estuary[.]

''PART 3—AUTHORIZATION AND SAVINGS CLAUSE

''SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

''(a) There are authorized to be appropriated a total amount not to exceed $25,000,000 for section 412(1)(B) and section 414 of this subtitle.

''(b) Unless otherwise specified, there are authorized to be appropriated such sums as may be necessary to carry out the remaining provisions of this subtitle.

''SEC. 432. SAVINGS CLAUSE.

''Nothing in this subtitle shall be construed as limiting or restricting the power and authority of the United States or—

''(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

''(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

''(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

''(4) as superseding, modifying, or repealing, except as specifically set forth in this subtitle, existing law applicable to the various Federal agencies; or

''(5) as modifying the terms of any interstate compact.''

USE OF WESTERN AREA POWER ADMINISTRATION CONTINUING FUND TO PAY FOR PURCHASE POWER AND WHEELING EXPENSES TO MEET CONTRACTUAL OBLIGATIONS DURING PERIODS OF BELOW-AVERAGE HYDROPOWER GENERATION

Pub. L. 101–101, title III, Sept. 29, 1989, 103 Stat. 661, provided: ''That, the continuing fund established in Public Law 98–50 [July 14, 1983, 97 Stat. 247, 257] shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-normal hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the continuing fund shall occur within twelve months of the month in which the funds were first expended.''

EMERGENCY FUND

Provisions relating to appropriations for the emergency fund to assure continuous operation of projects and project facilities governed by Federal reclamation law were contained in the following appropriation acts:

Pub. L. 103–316, title II, Aug. 26, 1994, 108 Stat. 1714.

Pub. L. 103–126, title II, Oct. 28, 1993, 107 Stat. 1324.

Pub. L. 102–377, title II, Oct. 2, 1992, 106 Stat. 1329.

Pub. L. 102–104, title II, Aug. 17, 1991, 105 Stat. 524.

Pub. L. 101–514, title II, Nov. 5, 1990, 104 Stat. 2085.

Pub. L. 101–101, title II, Sept. 29, 1989, 103 Stat. 654.

Pub. L. 100–371, title II, July 19, 1988, 102 Stat. 864.

Pub. L. 100–202, §101(d) [title II], Dec. 22, 1987, 101 Stat. 1329–104, 1329–116.

Pub. L. 99–500, §101(e) [title II], Oct. 18, 1986, 100 Stat. 1783–194, 1783–202, and Pub. L. 99–591, §101(e) [title II], Oct. 30, 1986, 100 Stat. 3341–194, 3341–202.

Pub. L. 99–141, title II, title III, Nov. 1, 1985, 99 Stat. 569, 575.

Pub. L. 98–360, title II, title III, July 16, 1984, 98 Stat. 409, 416.

Pub. L. 98–50, title II, title III, July 14, 1983, 97 Stat. 252, 257.
Pub. L. 97–88, title III, Dec. 4, 1981, 95 Stat. 1145.
Pub. L. 96–367, title I, Oct. 1, 1980, 94 Stat. 1335.
Pub. L. 96–69, title I, Sept. 25, 1979, 93 Stat. 440.
Pub. L. 94–355, title III, July 12, 1976, 89 Stat. 895.
Pub. L. 93–393, title III, Aug. 28, 1974, 88 Stat. 787.
Pub. L. 93–97, title III, Aug. 16, 1973, 87 Stat. 321.
Pub. L. 92–134, title III, Oct. 5, 1971, 85 Stat. 370.
Pub. L. 91–144, title III, Dec. 11, 1969, 83 Stat. 331.
Pub. L. 89–689, title II, Oct. 15, 1966, 80 Stat. 1008.
Pub. L. 88–511, title II, Aug. 30, 1964, 78 Stat. 687.
Pub. L. 87–880, title II, Oct. 24, 1962, 76 Stat. 1221.

TEMPORARY AUTHORITY OF SECRETARY OF THE INTERIOR TO FACILITATE EMERGENCY ACTIONS WITH REGARD TO 1976–1977 DROUGHT

Pub. L. 95–18, Apr. 7, 1977, 91 Stat. 36, as amended by Pub. L. 95–107, Aug. 17, 1977, 91 Stat. 870; Pub. L. 95–226, Feb. 7, 1978, 92 Stat. 10, directed Secretary of the Interior to undertake construction, management and conservation activities designed to mitigate losses and damages to Federal reclamation projects and Indian irrigation projects resulting from 1976–1977 drought, to assist willing buyers in purchasing available water supplies from willing sellers, and to undertake studies of potential facilities to mitigate effects of a recurrence of drought and make recommendations to President and Congress evaluating potential undertakings, authorized Secretary to defer, without penalty, the 1977 installment payments on charges owed the United States and to make loans to irrigators for construction, management, conservation activities, or acquisition and transportation of water, appropriated $100,000,000 to carry out provisions of this Act and specified the availability of such funds for expenditures, directed Secretary, not later than May 1, 1978, to provide President and Congress a complete report on expenditures and accomplishments, and provided that authorities conferred by this Act terminate on Nov. 30, 1977.

### § 503. "Unusual or emergency conditions" defined

The term ''unusual or emergency conditions'', as used in section 502 of this title, shall be construed to mean canal bank failures, generator failures, damage to transmission lines; or other physical failures or damage, or acts of God, or of the public enemy, fires, floods, drought, epidemics, strikes, or freight embargoes, or conditions, causing or threatening to cause interruption in water or power service.

(June 26, 1948, ch. 676, § 2, 62 Stat. 1052.)

### § 504. Rehabilitation and betterment of Federal reclamation projects, including small reclamation projects; return of costs; interest; definitions; performance of work

Expenditures of funds hereafter specifically appropriated for rehabilitation and betterment of any project constructed under authority of the Small Reclamation Projects Act (Act of August 6, 1956, 70 Stat. 1044, and Acts amendatory thereof and supplementary thereto) [43 U.S.C. 422a et seq.] and of irrigation systems on projects governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), shall be made only after the organizations concerned shall have obligated themselves for the return thereof, in installments fixed in accordance with their ability to pay, as determined by the Secretary of the Interior in the light of their outstanding repayment obligations, and which shall, to the fullest practicable extent, be scheduled for return with their construction charge installments or otherwise scheduled as he shall determine: *Provided*, That repayment of such loans made for small reclamation projects shall include interest in accordance with the provisions of said Small Reclamation Projects Act. No such determination of the Secretary of the Interior shall become effective until the expiration of sixty days after it has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; except that, any such determination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary in writing, of such approval: *Provided*, That when Congress is not in session the Secretary's determination, if accompanied by a finding by the Secretary that substantial hardship to the water users concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings. The term ''rehabilitation and betterment'', as used in this section, shall mean maintenance, including replacements, which cannot be financed currently, as otherwise contemplated by the Federal reclamation laws in the case of operation and maintenance costs, but shall not include construction, the costs of which are returnable, in whole or in part, through ''construction charges'' as that term is defined in section 485a(d) of this title. Such rehabilitation and betterment work may be performed by contract, by force-account, or, notwithstanding any other law and subject to such reasonable terms and conditions as the Secretary of the Interior shall deem appropriate for the protection of the United States, by contract entered into with the organization concerned whereby such organization shall perform such work.

(Oct. 7, 1949, ch. 650, § 1, 63 Stat. 724; Mar. 3, 1950, ch. 47, 64 Stat. 11; Pub. L. 94–102, Oct. 3, 1975, 89 Stat. 485; Pub. L. 103–437, § 16(c), Nov. 2, 1994, 108 Stat. 4594.)

REFERENCES IN TEXT

The Small Reclamation Projects Act, referred to in text, probably means the Small Reclamation Projects Act of 1956, act Aug. 6, 1956, ch. 972, 70 Stat. 1044, as amended, which is classified generally to subchapter IV (§ 422a et seq.) of this chapter. For complete classification of this Act to the Code, see section 422k of this title and Tables.

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House'' for ''Committee on Interior and Insular Affairs of the Senate and the Committee on Public Lands of the House''.

1975—Pub. L. 94–102 required return of costs for small reclamation projects including interest payments.

1950—Act Mar. 3, 1950, struck out period at end of second sentence and inserted ''; except that, any such de-

termination may become effective prior to the expiration of such sixty days in any case in which each such committee approves an earlier date and notifies the Secretary in writing, of such approval: *Provided*, That when Congress is not in session the Secretary's determination, if accompanied by a finding by the Secretary that substantial hardship to the water users concerned or substantial further injury to the project works will result, shall become effective when the chairman and ranking minority member of each such committee shall file with the Secretary their written approval of said findings.''

SHORT TITLE

Act Oct. 7, 1949, ch. 650, 63 Stat. 724, which enacted this section and provisions set out below, is popularly known as the ''Rehabilitation and Betterment Act of 1949''.

SUPPLEMENTAL TO FEDERAL RECLAMATION LAWS

Section 2 of act Oct. 7, 1949, provided that: ''This Act [enacting this section] shall be deemed a supplement to the Federal reclamation laws.''

### § 505. Drainage facilities and minor construction in irrigation works; contracts with repayment organizations; limitation on costs; submission of contract to Congress

Funds appropriated for the construction of irrigation works authorized to be undertaken pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), the Act of August 11, 1939 (53 Stat. 1418), as amended [16 U.S.C. 590y et seq.], or other Acts of Congress may, insofar as such funds are available for the construction of drainage facilities and other minor items, be utilized by the Secretary of the Interior to accomplish such work by contract, by force account or, notwithstanding any other law and subject only to such reasonable terms and conditions as the Secretary shall deem appropriate for the protection of the United States, by contract entered into with the repayment organization concerned whereby said organization shall perform such work: *Provided*, That in the event construction work to be accomplished by any one repayment organization, pursuant to contract with the United States, exceeds a total cost of $200,000, such contract shall not be executed by the Secretary prior to the expiration of sixty calendar days (which sixty days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which it has been submitted to the Speaker of the House and the President of the Senate for reference to the appropriate Committees, except that such contract may be executed prior to expiration of such sixty days in any case in which both such Committees approve said contract and notify the Secretary in writing of such approval.

(June 13, 1956, ch. 382, 70 Stat. 274.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

Act of August 11, 1939, referred to in text, is classified generally to subchapter II (§ 590y et seq.) of chapter 3C of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

## SUBCHAPTER XI–A—RECLAMATION SAFETY OF DAMS

### § 506. Authority of Secretary to make modifications

In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

(Pub. L. 95–578, § 2, Nov. 2, 1978, 92 Stat. 2471.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–404, § 1, Aug. 28, 1984, 98 Stat. 1481, provided in part: ''That this Act [amending sections 508 and 509 of this title] may be cited as 'The Reclamation Safety of Dams Act Amendments of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Section 1 of Pub. L. 95–578 provided: ''That this Act [enacting this subchapter and amending section 1511 of this title] shall be cited as the 'Reclamation Safety of Dams Act of 1978'.''

FACILITIES INCLUDED WITHIN SCOPE OF RECLAMATION SAFETY OF DAMS ACT OF 1978

Pub. L. 95–578, § 12, as added by Pub. L. 98–404, § 1(4), Aug. 28, 1984, 98 Stat. 1482, provided that: ''Included within the scope of this Act [this subchapter] are Fish Lake, Four Mile, Ochoco, Savage Rapids Diversion and Warm Springs Dams, Oregon; Como Dam, Montana; Little Wood River Dam, Idaho; and related facilities which have been made a part of a Federal reclamation project by previous Acts of Congress. Coolidge Dam, San Carlos Irrigation Project, Arizona, shall also be included within the scope of this Act.''

### § 507. Construction for dam safety

Construction authorized by this subchapter shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this subchapter shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

(Pub. L. 95–578, § 3, Nov. 2, 1978, 92 Stat. 2471.)

### § 508. Costs incurred in the modification of structures

#### (a) Costs resulting from age and normal deterioration or lack of maintenance of structures

Costs heretofore or hereafter incurred in the modification of structures under this subchapter, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal main-

tenance of the structure by the operating entity shall be considered as project costs and will be allocated to the purposes for which the structure was authorized initially to be constructed and will be reimbursable as provided by existing law.

**(b) Nonreimbursable costs resulting from new hydrologic or seismic data or changes in criteria**

With respect to the $100,000,000 authorized to be appropriated in the Reclamation Safety of Dams Act of 1978 [43 U.S.C. 509], costs heretofore or hereafter incurred in the modification of structures under this subchapter, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes shall be nonreimbursable and nonreturnable under the Federal Reclamation law.

**(c) Reimbursement of certain modification costs**

With respect to the additional amounts authorized to be appropriated by section 509 of this title, costs incurred in the modification of structures under this subchapter, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes, shall be reimbursed to the extent provided in this subsection.

(1) Fifteen percent of such costs shall be allocated to the authorized purposes of the structure, except that in the case of Jackson Lake Dam, Minidoka Project, Idaho-Wyoming, such costs shall be allocated in accordance with the allocation of operation and maintenance charges.

(2) Costs allocated to irrigation water service and capable of being repaid by the irrigation water users shall be reimbursed within 50 years of the year in which the work undertaken pursuant to this subchapter is substantially complete. Costs allocated to irrigation water service which are beyond the water users' ability to pay shall be reimbursed in accordance with existing law.

(3) Costs allocated to recreation or fish and wildlife enhancement shall be reimbursed in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended [16 U.S.C. 460*l*–12 et seq.].

(4) Costs allocated to the purpose of municipal, industrial, and miscellaneous water service, commercial power, and the portion of recreation and fish and wildlife enhancement costs reimbursable under the Federal Water Project Recreation Act [16 U.S.C. 460*l*–12 et seq.], shall be repaid within 50 years with interest. The interest rate used 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 applicable reimbursement period during the month preceding the fiscal year in which the costs 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 an interest rate at the weighted average of the rates so determined.

**(d) Contracts for return of costs**

The Secretary is authorized to negotiate appropriate contracts with project beneficiaries providing for the return of reimbursable costs under this subchapter: *Provided*, *however*, That no contract entered into pursuant to this subchapter shall be deemed to be a new or amended contract for the purposes of section 390cc(a) of this title.

**(e) Cost containment; modification status**

(1) During the construction of the modification, the Secretary shall consider cost containment measures recommended by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

(2) The Secretary shall provide to project beneficiaries on a periodic basis notice regarding the costs and status of the modification.

(Pub. L. 95–578, § 4, Nov. 2, 1978, 92 Stat. 2471; Pub. L. 98–404, § 1(1), (2), Aug. 28, 1984, 98 Stat. 1481; Pub. L. 106–377, § 1(a)(2) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A–67; Pub. L. 107–117, div. B, § 503(1), Jan. 10, 2002, 115 Stat. 2308; Pub. L. 108–439, §§ 1(a), 2(a), Dec. 3, 2004, 118 Stat. 2627.)

REFERENCES IN TEXT

The $100,000,000 authorized to be appropriated in the Reclamation Safety of Dams Act of 1978, referred to in subsec. (b), probably refers to the authorization originally contained in section 509 of this title. See 1984 Amendment note set out under section 509 of this title.

The Federal Reclamation law, referred to in subsec. (b), probably means act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto. See section 506 of this title. Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

The Federal Water Project Recreation Act, referred to in subsec. (c)(3), (4), is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of Title 16 and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–439, § 1(a), inserted "Reimbursement of certain modification costs" as heading and substituted "With respect to the additional amounts authorized to be appropriated by section 509 of this title" for "With respect to the additional $650,000,000 authorized to be appropriated in The Reclamation Safety of Dams Act Amendments of 1984, and the additional $95,000,000 further authorized to be appropriated by amendments to that Act in 2000, and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001" in introductory provisions.

Subsec. (e). Pub. L. 108–439, § 2(a), added subsec. (e).

2002—Subsec. (c). Pub. L. 107–117 inserted "and the additional $32,000,000 further authorized to be appropriated by amendments to the Act in 2001," after "2000," in introductory provisions.

2000—Subsec. (c). Pub. L. 106–377 inserted "and the additional $95,000,000 further authorized to be appropriated by amendments to that Act in 2000," after "1984," in introductory provisions.

1984—Subsec. (b). Pub. L. 98–404, § 1(1), substituted "With respect to the $100,000,000 authorized to be appropriated in the Reclamation Safety of Dams Act of 1978, costs" for "Costs".

Subsecs. (c), (d). Pub. L. 98–404, § 1(2), added subsecs. (c) and (d).

### § 509. Authorization of appropriations; report to Congress

There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary and, effective October 1, 1983, not to exceed an additional $650,000,000 (October 1, 1983, price levels), and, effective October 1, 2000, not to exceed an additional $95,000,000 (October 1, 2000, price levels), and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels), and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this subchapter to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds exceeding $1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes, shall be obligated for carrying out actual construction to modify an existing dam under authority of this subchapter prior to 30 calendar days from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

(Pub. L. 95–578, § 5, Nov. 2, 1978, 92 Stat. 2471; Pub. L. 98–404, § 1(3), Aug. 28, 1984, 98 Stat. 1482; Pub. L. 106–377, § 1(a)(2) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A–67; Pub. L. 107–117, div. B, § 503(2), Jan. 10, 2002, 115 Stat. 2308; Pub. L. 108–439, § 1(b), Dec. 3, 2004, 118 Stat. 2627.)

AMENDMENTS

2004—Pub. L. 108–439 inserted ''and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels),'' after ''(October 1, 2001, price levels),'' and substituted ''$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,'' for ''$750,000''.

2002—Pub. L. 107–117 inserted ''and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),'' after ''(October 1, 2000, price levels),''.

2000—Pub. L. 106–377 inserted ''and, effective October 1, 2000, not to exceed an additional $95,000,000 (October 1, 2000, price levels),'' after ''(October 1, 1983, price levels),'' and substituted ''30 calendar days'' for ''sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain)''.

1984—Pub. L. 98–404 substituted ''and, effective October 1, 1983, not to exceed an additional $650,000,000 (October 1, 1983, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this subchapter to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds exceeding $750,000'' for '', but not to exceed $100,000,000, to carry out the provisions of this subchapter of this title to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds''.

### § 509a. Project beneficiaries

**(a) Notice of modification**

On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice—

(1) describing the need for the modification and the process for identifying and implementing the modification; and

(2) summarizing the administrative and legal requirements relating to the modification.

**(b) Consultation**

The Secretary shall—

(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and

(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).

**(c) Alternatives**

(1) Prior to submitting the reports required under section 509 of this title, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b) of this section, by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.

(3) The response of the Secretary shall be included in the reports required by section 509 of this title.

**(d) Waiver**

The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c) of this section, if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.

(Pub. L. 95–578, § 5A, as added Pub. L. 108–439, § 2(b), Dec. 3, 2004, 118 Stat. 2627.)

## SUBCHAPTER XI–B—AGING INFRASTRUCTURE

### § 510. Definitions

In this subchapter:

**(1) Inspection**

The term ''inspection'' means an inspection of a project facility carried out by the Secretary—

(A) to assess and determine the general condition of the project facility; and

(B) to estimate the value of property, and the size of the population, that would be at risk if the project facility fails, is breached, or otherwise allows flooding to occur.

**(2) Project facility**

The term ''project facility'' means any part or incidental feature of a project, excluding high- and significant-hazard dams, constructed under the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)[1].

**(3) Reserved works**

The term ''reserved works'' mean[2] any project facility at which the Secretary carries out the operation and maintenance of the project facility.

**(4) Secretary**

The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

**(5) Transferred works**

The term ''transferred works'' means a project facility, the operation and maintenance of which is carried out by a non-Federal entity, under the provisions of a formal operation and maintenance transfer contract.

**(6) Transferred works operating entity**

The term ''transferred works operating entity'' means the organization which is contractually responsible for operation and maintenance of transferred works.

**(7) Extraordinary operation and maintenance work**

The term ''extraordinary operation and maintenance work'' means major, nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is—

(A) intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits; and

(B) greater than 10 percent of the contractor's or the transferred works operating entity's annual operation and maintenance budget for the facility, or greater than $100,000.

(Pub. L. 111–11, title IX, § 9601, Mar. 30, 2009, 123 Stat. 1346.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388, chapter 1093), referred to in par. (2), is popularly known as the Reclamation Act and 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.

## § 510a. Guidelines and inspection of project facilities and technical assistance to transferred works operating entities

**(a) Guidelines and inspections**

**(1) Development of guidelines**

Not later than 1 year after March 30, 2009, the Secretary in consultation with transferred works operating entities shall develop, consistent with existing transfer contracts, specific inspection guidelines for project facilities which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such project facilities were to fail.

**(2) Conduct of inspections**

Not later than 3 years after March 30, 2009, the Secretary shall conduct inspections of those project facilities, which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such facilities were to fail, using such specific inspection guidelines and criteria developed pursuant to paragraph (1). In selecting project facilities to inspect, the Secretary shall take into account the potential magnitude of public safety and economic damage posed by each project facility.

**(3) Treatment of costs**

The costs incurred by the Secretary in conducting these inspections shall be nonreimbursable.

**(b) Use of inspection data**

The Secretary shall use the data collected through the conduct of the inspections under subsection (a)(2) to—

(1) provide recommendations to the transferred works operating entities for improvement of operation and maintenance processes, operating procedures including operation guidelines consistent with existing transfer contracts, and structural modifications to those transferred works;

(2) determine an appropriate inspection frequency for such nondam project facilities which shall not exceed 6 years; and

(3) provide, upon request of transferred work operating entities, local governments, or State agencies, information regarding potential hazards posed by existing or proposed residential, commercial, industrial or public-use development adjacent to project facilities.

**(c) Technical assistance to transferred works operating entities**

**(1) Authority of Secretary to provide technical assistance**

The Secretary is authorized, at the request of a transferred works operating entity in proximity to an urbanized area, to provide technical assistance to accomplish the following, if consistent with existing transfer contracts:

(A) Development of documented operating procedures for a project facility.

(B) Development of documented emergency notification and response procedures for a project facility.

(C) Development of facility inspection criteria for a project facility.

(D) Development of a training program on operation and maintenance requirements and practices for a project facility for a transferred works operating entity's workforce.

(E) Development of a public outreach plan on the operation and risks associated with a project facility.

[1] So in original. Probably should be another closing parenthesis before the final period.

[2] So in original. Probably should be ''means''.

(F) Development of any other plans or documentation which, in the judgment of the Secretary, will contribute to public safety and the sage operation of a project facility.

**(2) Costs**

The Secretary is authorized to provide, on a non-reimbursable basis, up to 50 percent of the cost of such technical assistance, with the balance of such costs being advanced by the transferred works operating entity or other non-Federal source. The non-Federal 50 percent minimum cost share for such technical assistance may be in the form of in-lieu contributions of resources by the transferred works operating entity or other non-Federal source.

(Pub. L. 111–11, title IX, § 9602, Mar. 30, 2009, 123 Stat. 1347.)

### § 510b. Extraordinary operation and maintenance work performed by the Secretary

**(a) In general**

The Secretary or the transferred works operating entity may carry out, in accordance with subsection (b) and consistent with existing transfer contracts, any extraordinary operation and maintenance work on a project facility that the Secretary determines to be reasonably required to preserve the structural safety of the project facility.

**(b) Reimbursement of costs arising from extraordinary operation and maintenance work**

**(1) Treatment of costs**

For reserved works, costs incurred by the Secretary in conducting extraordinary operation and maintenance work will be allocated to the authorized reimbursable purposes of the project and shall be repaid within 50 years, with interest, from the year in which work undertaken pursuant to this subchapter is substantially complete.

**(2) Authority of Secretary**

For transferred works, the Secretary is authorized to advance the costs incurred by the transferred works operating entity in conducting extraordinary operation and maintenance work and negotiate appropriate 50-year repayment contracts with project beneficiaries providing for the return of reimbursable costs, with interest, under this subsection: Provided, however, That no contract entered into pursuant to this subchapter shall be deemed to be a new or amended contract for the purposes of section 390cc(a) of this title.

**(3) Determination of interest rate**

The interest rate used for computing interest on work in progress and interest on the unpaid balance of the reimbursable costs of extraordinary operation and maintenance work authorized by this subchapter shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which extraordinary operation and maintenance work is commenced, on the basis of average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the project, adjusted to the nearest ⅛ of 1 percent on the unamortized balance of any portion of the loan.

**(c) Emergency extraordinary operation and maintenance work**

**(1) In general**

The Secretary or the transferred works operating entity shall carry out any emergency extraordinary operation and maintenance work on a project facility that the Secretary determines to be necessary to minimize the risk of imminent harm to public health or safety, or property.

**(2) Reimbursement**

The Secretary may advance funds for emergency extraordinary operation and maintenance work and shall seek reimbursement from the transferred works operating entity or benefitting entity upon receiving a written assurance from the governing body of such entity that it will negotiate a contract pursuant to this section for repayment of costs incurred by the Secretary in undertaking such work.

**(3) Funding**

If the Secretary determines that a project facility inspected and maintained pursuant to the guidelines and criteria set forth in section 510a(a) of this title requires extraordinary operation and maintenance pursuant to paragraph (1), the Secretary may provide Federal funds on a nonreimbursable basis sufficient to cover 35 percent of the cost of the extraordinary operation and maintenance allocable to the transferred works operating entity, which is needed to minimize the risk of imminent harm. The remaining share of the Federal funds advanced by the Secretary for such work shall be repaid under subsection (b).

(Pub. L. 111–11, title IX, § 9603, Mar. 30, 2009, 123 Stat. 1348.)

### § 510c. Relationship to Twenty-First Century Water Works Act

Nothing in this subchapter shall preclude a transferred works operating entity from applying and receiving a loan-guarantee pursuant to the Twenty-First Century Water Works Act [43 U.S.C. 2421 et seq].

(Pub. L. 111–11, title IX, § 9604, Mar. 30, 2009, 123 Stat. 1349.)

REFERENCES IN TEXT

The Twenty-First Century Water Works Act, referred to in text, is title II of Pub. L. 109–451, Dec. 22, 2006, 120 Stat. 3356, which is classified generally to subchapter II (§ 2421 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of this title and Tables.

### § 510d. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter.

(Pub. L. 111–11, title IX, § 9605, Mar. 30, 2009, 123 Stat. 1349.)

SUBCHAPTER XII—CONTRACTS WITH STATE IRRIGATION DISTRICTS FOR PAYMENT OF CHARGES

### § 511. Authority to contract with irrigation district

In carrying out the purposes of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof and supplementary thereto and known as the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with. In the event of such contract being made with an irrigation district, the Secretary of the Interior, in his discretion, may contract that the payments, both for the construction of irrigation works and for operation and maintenance, on the part of the district shall be made upon such dates as will best conform to the district and taxation laws of the respective States under which such irrigation districts shall be formed, and if he deem it advisable he may contract for such penalties or interest charges in case of delinquency in payments as he may deem proper and consistent with such State laws, notwithstanding the provisions of sections 471, 472, 475, 478 to 481, 492, 493, 494 to 497 and 499 of this title. The Secretary of the Interior may accept a partial payment of the amount due from any district to the United States, providing such acceptance shall not constitute a waiver of the balance remaining due nor the interest or penalties, if any, accruing upon said balance: *Provided*, That no contract with an irrigation district under this section and sections 512 and 513 of this title shall be binding on the United States until the proceedings on the part of the district for the authorization of the execution of the contract with the United States shall have been confirmed by decree of a court of competent jurisdiction, or pending appellate action if ground for appeal be laid.

(May 15, 1922, ch. 190, § 1, 42 Stat. 541.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 512. Release of Government liens after contract with irrigation districts

Patents and water-right certificates which shall be issued after May 15, 1922, under the terms of subchapter XIV of this chapter, for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; and where such a lien shall have been reserved in any patent or water-right certificate issued under said subchapter, the Secretary of the Interior is empowered to release such lien in such manner and form as may be deemed effective; and the Secretary of the Interior is further empowered to release liens in favor of the United States contained in water-right applications and to assent to the release of liens to secure reimbursement of moneys due to the United States pursuant to water-right applications running in favor of the water users' association and contained in stock subscription contracts to such associations, when the lands covered by such liens shall be subject to assessment and levy for the collection of all moneys due and to become due to the United States by irrigation districts formed pursuant to State law and with which the United States shall have entered into contract therefor: *Provided*, That no such lien so reserved to the United States in any patent or water-right certificate shall be released until the owner of the land covered by the lien shall consent in writing to the assessment, levy, and collection by such irrigation district of taxes against said land for the payment to the United States of the contract obligation: *Provided further*, That before any lien is released under this section the Secretary of the Interior shall file a written report finding that the contracting irrigation district is legally organized under the laws of the State in which its lands are located, with full power to enter into the contract and to collect by assessment and levy against the lands of the district the amount of the contract obligation.

(May 15, 1922, ch. 190, § 2, 42 Stat. 542.)

REFERENCES IN TEXT

Subchapter XIV (§ 541 et seq.) of this chapter, referred to in text, was in the original a reference to act Aug. 9, 1912, 37 Stat. 265.

### § 513. Lands in project subject to provisions of chapter; after contract with irrigation district

Upon the execution of any contract between the United States and any irrigation district pursuant to sections 511 and 512 of this title the public lands included within such irrigation district, when subject to entry, and entered lands within such irrigation district, for which no final certificates shall have been issued and which may be designated by the Secretary of the Interior in said contract, shall be subject to all the provisions of chapter 13 of this title: *Provided*, That no map or plan as required by section 623 of this title need be filed by the irrigation district for approval by the Secretary of the Interior.

(May 15, 1922, ch. 190, § 3, 42 Stat. 542.)

SUBCHAPTER XIII—SALE OR LEASE OF SURPLUS WATERS, WATER POWER, STORAGE CAPACITY, AND WATER TRANSPORTATION FACILITIES

### § 521. Sale of surplus waters generally

The Secretary of the Interior in connection with the operations under the reclamation law is authorized to enter into contract to supply water from any project irrigation system for other purposes than irrigation, upon such condi-

tions of delivery, use, and payment as he may deem proper: *Provided*, That the approval of such contract by the water-users' association or associations shall have first been obtained: *Provided*, That no such contract shall be entered into except upon a showing that there is no other practicable source of water supply for the purpose: *Provided further*, That no water shall be furnished for the uses aforesaid if the delivery of such water shall be detrimental to the water service for such irrigation project, nor to the rights of any prior appropriator: *Provided further*, That the moneys derived from such contracts shall be covered into the reclamation fund and be placed to the credit of the project from which such water is supplied.

(Feb. 25, 1920, ch. 86, 41 Stat. 451.)

**§ 522. Lease of water power**

Whenever a development of power is necessary for the irrigation of lands, under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privileges as will impair the efficiency of the irrigation project: *Provided further*, That the Secretary of the Interior is authorized, in his discretion, to make such a lease in connection with Rio Grande project in Texas and New Mexico for a longer period not exceeding fifty years, with the approval of the water-users' association or associations under any such project, organized in conformity with the rules and regulations prescribed by the Secretary of the Interior in pursuance of section 498 of this title.

(Apr. 16, 1906, ch. 1631, § 5, 34 Stat. 117; Feb. 24, 1911, ch. 155, 36 Stat. 930.)

REFERENCES IN TEXT

The said reclamation Act, referred to in text, means act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. See section 561 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.

**§ 523. Storage and transportation of water for irrigation districts, etc.**

Whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the project, is authorized, upon such terms as he may determine to be just and equitable, to contract for the impounding, storage, and carriage of water to an extent not exceeding such excess capacity with irrigation systems operating under section 641 of this title, and individuals, corporations, associations, and irrigation districts organized for or engaged in furnishing or in distributing water for irrigation. Water so impounded, stored, or carried under any such contract shall be for the purpose of distribution to individual water users by the party with whom the contract is made: *Provided, however*, That water so impounded, stored, or carried shall not be used otherwise than as prescribed by law as to lands held in private ownership within Government reclamation projects. In fixing the charges under any such contract for impounding, storing, or carrying water for any irrigation system, corporation, association, district, or individual, as herein provided, the Secretary shall take into consideration the cost of construction and maintenance of the reservoir by which such water is to be impounded or stored and the canal by which it is to be carried, and such charges shall be just and equitable as to water users under the Government project. No irrigation system, district, association, corporation, or individual so contracting shall make any charge for the storage, carriage, or delivery of such water in excess of the charge paid to the United States except to such extent as may be reasonably necessary to cover cost of carriage and delivery of such water through their works.

(Feb. 21, 1911, ch. 141, § 1, 36 Stat. 925.)

REFERENCES IN TEXT

The reclamation law, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

SHORT TITLE

The act of Feb. 21, 1911, which enacted sections 523 to 525 of this title, is popularly known as the "Warren Act".

**§ 524. Cooperation with irrigation districts, etc., in construction of reservoirs and canals**

In carrying out the provisions of the said reclamation Act, and Acts amendatory thereof or supplementary thereto, the Secretary of the Interior is authorized, upon such terms as may be agreed upon, to cooperate with irrigation districts, water-users' associations, corporations, entrymen, or water users for the construction or use of such reservoirs, canals, or ditches as may be advantageously used by the Government and irrigation districts, water-users' associations, corporations, entrymen, or water users for impounding, delivering, and carrying water for irrigation purposes: *Provided*, That the title to and management of the works so constructed shall be subject to the provisions of section 498 of this title: *Provided further*, That water shall not be furnished from any such reservoir or delivered through any such canal or ditch to any one landowner in excess of an amount sufficient to irrigate one hundred and sixty acres: *Provided*, That nothing contained in sections 523 to 525 of this title shall be held or construed as enlarging or attempting to enlarge the right of the United States, under existing law, to control the waters of any stream in any State.

(Feb. 21, 1911, ch. 141, § 2, 36 Stat. 926.)

REFERENCES IN TEXT

The said reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 525. Covering proceeds into reclamation fund

The moneys received in pursuance of the contracts authorized by sections 523 and 524 of this title shall be covered into the reclamation fund and be available for use under the terms of the reclamation Act and the Acts amendatory thereof or supplementary thereto.

(Feb. 21, 1911, ch. 141, § 3, 36 Stat. 926.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

The words ''the contracts authorized by sections 523 and 524 of this title'' substituted in text for ''such contracts''.

### § 526. Credit of proceeds to particular project

All moneys or profits as determined by the Secretary heretofore or hereafter derived from the sale or rental of surplus water under the Warren Act of February 21, 1911 (36 Stat. 925) [43 U.S.C. 523 to 525], or from the connection of a new project with an existing project shall be credited to the project or division of the project to which the construction cost has been charged.

(Dec. 5, 1924, ch. 4, § 4, subsec. J, 43 Stat. 703.)

REFERENCES IN TEXT

The Warren Act of February 21, 1911, referred to in text, is act Feb. 21, 1911, ch. 141, 36 Stat. 925, 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.

DEFINITIONS

The definitions in section 371 of this title apply to this section.

## SUBCHAPTER XIV—PATENTS AND FINAL WATER-RIGHT CERTIFICATES

### § 541. When patent or final certificate issued

Any homestead entryman under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence reclamation, and cultivation, submit proof of such residence, reclamation, and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided*, That no such patent or final water-right certificate shall issue until after the payment of all sums due the United States on account of such land or water right at the time of the submission of proof entitling the homestead or desert-land entryman to such patent or the purchaser to such final water-right certificate.

(Aug. 9, 1912, ch. 278, § 1, 37 Stat. 265; Feb. 15, 1917, ch. 71, 39 Stat. 920.)

REFERENCES IN TEXT

Act of June 17, 1902, known as the reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 542. Reservation of lien for charges; enforcement of lien; redemption

Every patent and water-right certificate issued under this subchapter shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims, or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with 8 per centum interest and cost. And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: *Provided*, That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs.

(Aug. 9, 1912, ch. 278, § 2, 37 Stat. 266.)

### § 543. Certificate of final payment and release of lien

Upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certificate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance.

(Aug. 9, 1912, ch. 278, § 3, 37 Stat. 266.)

CODIFICATION

Section comprises part of section 3 of act Aug. 9, 1912. Remainder of section 3 is set out as section 544 of this title.

### § 544. Limitation as to holdings prior to final payment of charges; forfeiture of excess holding

No person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water-right application shall have been made under the said reclamation Act of June 17, 1902 and Acts supplementary thereto and amendatory thereof, before final payment in full of all installments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired by foreclosure or other process of law, by conveyance in satisfaction of mortgages, by inheritance, or by devise, may be held for five years and no longer after its acquisition, and water may be temporarily furnished during that time; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction. The above provision shall be recited in every patent and water-right certificate issued by the United States under the provisions of this subchapter.

(Aug. 9, 1912, ch. 278, § 3, 37 Stat. 266; July 11, 1956, ch. 563, § 2, 70 Stat. 524.)

REFERENCES IN TEXT

The reclamation Act of June 17, 1902, referred to in text, is identified in section 541 of this title as act June 17, 1902, ch. 1093, 32 Stat. 388, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Section comprises part of section 3 of act Aug. 9, 1912. Remainder of section 3 is set out as section 543 of this title.

AMENDMENTS

1956—Act July 11, 1956, increased period during which land could be held from two years to five years, and to authorize delivery of water for that period.

AMENDMENT OF EXISTING CONTRACTS

For provisions authorizing the Secretary of the Interior to amend existing contracts under the Federal reclamation laws to conform to the provisions of this section, see section 3 of act July 11, 1956, set out as a note under section 423e of this title.

### § 545. Appointment of agents to receive payments; record of payments and amounts owing

The Secretary of the Interior is authorized to designate such bonded fiscal agents or officers of the Reclamation Service as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation Act; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees which copies shall be admissible in evidence, as are copies authenticated under section eight hundred and eighty-eight[1] of the Revised Statutes.

(Aug. 9, 1912, ch. 278, § 4, 37 Stat. 267.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, is identified in section 541 of this section as act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

Section eight hundred and eighty-eight of the Revised Statutes, referred to in text, was repealed by section 21 of act June 25, 1948, ch. 645, 62 Stat. 862, the first section of which enacted Title 18, Crimes and Criminal Procedure. Prior to repeal, R.S. § 888 was classified to section 669 of former Title 28, Judicial Code and Judiciary. For provisions relating to admissibility in evidence of authenticated copies, see section 1733 of Title 28, Judiciary and Judicial Procedure.

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§ 1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§ 3, 5 (May 18, 1981).

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 546. Jurisdiction of district court for enforcement of this subchapter

Jurisdiction of suits by the United States for the enforcement of the provisions of this subchapter is conferred on the United States district courts of the districts in which the lands are situated.

(Aug. 9, 1912, ch. 278, § 5, 37 Stat. 267.)

### § 547. Patent to desert-land entryman

Any desert-land entryman whose desert-land entry has been embraced within the exterior limits of any land withdrawal or irrigation project under the Act of June 17, 1902, known as the reclamation Act, and who may have obtained a water supply for the land embraced in any such desert-land entry from the reclamation project by the purchase of a water-right certifi-

[1] See References in Text note below.

cate, may at any time after having complied with the provisions of the law applicable to such lands and upon proof of the cultivation and reclamation of the land to the extent required by the reclamation Act for homestead entrymen, submit proof of such compliance, which proof, if found regular and satisfactory, shall entitle the entryman to a patent and a final water-right certificate under the same terms and conditions as required of homestead entrymen under this subchapter.

(Aug. 26, 1912, ch. 408, § 1, 37 Stat. 610.)

REFERENCES IN TEXT

Act of June 17, 1902, known as the reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

This section was not enacted as part of act Aug. 9, 1912, ch. 278, 37 Stat. 265, which comprises this subchapter.

## SUBCHAPTER XV—TOWN SITES, PARKS, PLAYGROUNDS, AND SCHOOL SITES

### § 561. Survey and subdivision of land for town sites; reservation for public purposes

The Secretary of the Interior may in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, survey and subdivide the same into town lots, with appropriate reservations for public purposes: *Provided*, That, whenever, in the opinion of the Secretary of the Interior, it shall be advisable for the public interest, he may dispose of town sites in excess of one hundred and sixty acres.

(Apr. 16, 1906, ch. 1631, § 1, 34 Stat. 116; June 27, 1906, ch. 3559, § 4, 34 Stat. 520; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

REFERENCES IN TEXT

The reclamation Act of June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

CODIFICATION

Introductory provisions are from the first section of act Apr. 16, 1906. The proviso is from part of the proviso of section 4 of act June 27, 1906. Another part of the proviso of section 4 of act June 27, 1906, is classified to section 568 of this title. The remainder of section 4 of act June 27, 1906, was classified to former section 594 of this title.

AMENDMENTS

1976—Pub. L. 94–579 struck out provisions authorizing withdrawal from public entry any lands needed for town-site purposes.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 562. Appraisal and sale of town lots

The lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund.

(Apr. 16, 1906, ch. 1631, § 2, 34 Stat. 116.)

### § 563. Disposal of town sites set apart prior to June 27, 1906

Any town site set apart or established prior to June 27, 1906, by proclamation of the President, under the provisions of sections 711 and 712[1] of this title, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of section 562 of this title and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund.

(June 27, 1906, ch. 3559, § 3, 34 Stat. 519.)

REFERENCES IN TEXT

Sections 711 and 712 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789.

### § 564. Reappraisal of town lots for sale

The Secretary of the Interior is authorized, whenever he may deem it necessary, to reappraise all unsold lots within town sites on projects under the reclamation Act heretofore or hereafter appraised under the provisions of sections 562 and 563 of this title; and thereafter to proceed with the sale of such town lots in accordance with said sections.

(June 11, 1910, ch. 284, § 1, 36 Stat. 465.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 565. Terms of sale of town lots; installments of price

In the sale of town lots under the provisions of sections 562 and 563 of this title the Secretary of the Interior may, in his discretion, require payments for such town lots in full at time of sale

[1] See References in Text note below.

or in annual installments, not exceeding five, with interest at the rate of 6 per centum per annum on deferred payments.

(June 11, 1910, ch. 284, § 2, 36 Stat. 466.)

REFERENCES IN TEXT

Section 594 of this title, referred to in text, was omitted from the Code.

### § 566. Maintenance of public reservations and conveyance to municipality

The public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes.

(Apr. 16, 1906, ch. 1631, § 3, 34 Stat. 116.)

### § 567. Water rights for towns and cities; charges

The Secretary of the Interior shall, in accordance with the provisions of the reclamation Act, provide for water rights in amount he may deem necessary for the towns established as provided, in sections 561, 562 and 566 of this title, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

(Apr. 16, 1906, ch. 1631, § 4, 34 Stat. 116.)

REFERENCES IN TEXT

The reclamation Act, referred to in text, is identified in section 561 of this title as act June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

### § 568. Use of reclamation fund for expenses of and disposal of proceeds of sale of town sites

Reclamation funds shall be available for the payment of all expenses incurred in executing the provisions of sections 561 to 563 and 566 of this title relating to town sites, and the proceeds of all sales of town sites shall be covered into the reclamation fund.

(June 27, 1906, ch. 3559, § 4, 34 Stat. 520.)

CODIFICATION

Section is based on part of the proviso of section 4 of act June 27, 1906. The remainder of section 4 is classified to section 561 and former section 594 of this title.

### § 569. Reservation of land for park, playground, or community center

**(a) Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792**

**(b) Water service**

Subject to the provisions hereinafter contained in this section every such tract of land so set apart shall be supplied with water from the Government irrigation system, the cost thereof to be charged to the remaining lands of the project as a part of the construction charge of such project, and shall be maintained and used in perpetuity by the people upon said reclaimed lands for a pleasure park, public playground, and community center.

**(c) Contract for maintenance and use**

For the purpose of carrying out and effecting the objects of this section the Secretary of the Interior is authorized to enter into a contract with the organization formed by the owners of the lands irrigated within said project or project unit pursuant to section 498 of this title, stipulating and providing that the organization will maintain and use such of the lands so reserved for the purposes prescribed in this section as such organization may desire, and that upon failure to so maintain and use such lands, or in the event that same shall be permitted to be used or occupied for other purposes than those stipulated in this section, the control of the lands shall revert to the United States.

**(d) Disposition of land not contracted for**

Any of such lands not contracted for in accordance with the provisions of subsection (c) of this section within ten years from the time water is available for the same, or sooner, if the Secretary of the Interior may deem it desirable, shall be disposed of in accordance with the public land laws applicable thereto, and the proceeds from the disposition of lands reverting to the United States under the provisions of this section, and from sales of water rights, shall be covered into the reclamation fund and placed to the credit of the project wherein the lands are situate.

(Oct. 5, 1914, ch. 316, §§ 1–4, 38 Stat. 727, 728; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–579 struck out subsec. (a) authorizing Secretary of the Interior to withdraw and reserve lands for country parks, public playgrounds, etc.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 569a. Extension of section 569 to tract of land in Idaho

Section 569 of this title is extended to the following described land.

All in lot 2, section 22, township 7 north, range 1 west, Boise meridian, beginning at the northwest corner of said lot 2, thence east along the northern boundary of said lot 2 nine hundred and ninety feet; thence south along a line parallel to the eastern boundary of said lot 2 to the intersection with the northerly meander line of the Payette River; thence westerly along the northerly meander line of the Payette River to the intersection with the western boundary of said lot 2; thence north along the western boundary of said lot 2 to the northwest corner of said lot 2, which is the point of beginning, comprising approximately twenty-five acres.

(July 3, 1926, ch. 777, 44 Stat. 890.)

### § 570. Conveyance of land to school district

The Secretary of the Interior is hereby authorized, upon application by the proper officers of a school district located wholly or in part within the boundaries of a project of the United States Reclamation Service, to issue patent conveying to such district such unappropriated undisposed of lands, not exceeding six acres in area, within any Government reclamation town site situated within such school district as, in the opinion of the Secretary of the Interior, are necessary for use by said district for school buildings and grounds: *Provided*, That if any land so conveyed cease entirely to be used for school purposes title thereto shall revert to and revest in the United States.

(Oct. 31, 1919, ch. 92, 41 Stat. 326.)

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§ 1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§ 3, 5 (May 18, 1981).

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 571. Sale of unplatted portions of Government town sites; authorization

The Secretary of the Interior is authorized, in his discretion, to appraise, and sell, at public auction, to the highest bidder, from time to time, under such terms as to time of payment as he may require, but in no event for any longer period than five years, any or all of the unplatted portions of Government town sites created under the Act of April 16, 1906 (34 Stat. 116), on any irrigation project constructed under the Act of June 17, 1902 (32 Stat. 388), or Acts amendatory thereof or supplementary thereto: *Provided*, That any land so offered for sale and not disposed of may afterwards be sold, at not less than the appraised value, at private sale, under such regulations as the Secretary of the Interior may prescribe. Patents made in pursuance of such sale shall convey all the right, title, and interest of the United States in or to the land so sold.

(Mar. 2, 1929, ch. 541, § 1, 45 Stat. 1522; Feb. 14, 1931, ch. 176, 46 Stat. 1107.)

REFERENCES IN TEXT

Act of April 16, 1906, referred to in text, is act Apr. 16, 1906, ch. 1631, 34 Stat. 116, which enacted sections 522, 561, 562, 566, and 567 of this title. For complete classification of this Act to the Code, see Tables.

Act of 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 this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1931—Act Feb. 14, 1931, substituted "under such terms as to time of payment as he may require, but in no event for any longer period than five years" for "for cash".

### § 572. Disposition of net proceeds; fixing project construction charges

The net proceeds of such sales after deducting all expenditures on account of such lands, and the project construction charge, for the irrigable area of the lands so sold where irrigation or drainage works have been constructed or are proposed to be constructed, shall be disposed of as provided in section 501 of this title. Where the project construction charge shall not have been fixed at the date of any such sale, same shall be estimated by the Secretary of the Interior.

(Mar. 2, 1929, ch. 541, § 2, 45 Stat. 1522.)

### § 573. Expenses of appraisement and sale; rules and regulations

Reclamation funds are authorized to be appropriated for use in defraying the necessary expenses of appraisement and sale of the lands authorized to be sold under section 571 of this title, and the Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as, in his opinion, may be necessary and proper for carrying out the purposes of sections 571 to 573 of this title.

(Mar. 2, 1929, ch. 541, § 3, 45 Stat. 1522.)

## SUBCHAPTER XVI—REFUNDS TO WAR VETERANS

### §§ 581 to 586. Omitted

CODIFICATION

Section 581, act Feb. 21, 1925, ch. 277, § 1, 43 Stat. 956, defined "veteran".

Section 582, act Feb. 21, 1925, ch. 277, § 2, 43 Stat. 956, related to authorization for refund to World War veterans.

Section 583, act Feb. 21, 1925, ch. 277, § 3, 43 Stat. 956, related to right of estate of a veteran to benefits.

Section 584, act Feb. 21, 1925, ch. 277, § 3, 43 Stat. 956, related to relinquishment of rights on acceptance of refund.

Section 585, act Feb. 21, 1925, ch. 277, § 4, 43 Stat. 957, related to cancellation of water-right application.

Section 586, act Feb. 21, 1925, ch. 277, § 5, 43 Stat. 957, related to regulations by Secretary of the Interior as to refunds.

SUBCHAPTER XVII—LEGISLATION APPLICABLE TO PARTICULAR PROJECTS GENERALLY

### § 591. Omitted

CODIFICATION

Section, act Feb. 28, 1923, ch. 145, § 5, 42 Stat. 1325, related to extension of time for payment of operation and maintenance charges on projects other than the Boise, Idaho, project. See section 493a of this title.

### § 591a. Boise project, Idaho; Arrowrock Dam; installment payments of costs of repairs, resurfacing, improvement, etc.

For the purpose of avoiding an unduly high operation and maintenance assessment in any one year and to keep the operation and maintenance charges in connection with the Arrowrock Division of the Boise reclamation project within the ability of the water users to pay, the Secretary of the Interior is authorized to allow the irrigation districts of the said Arrowrock Division and the irrigation districts ditch companies, and water users who have assumed obligations to pay proportionate parts of the estimated cost of the operation and maintenance of the Arrowrock Reservoir, to pay the costs, as determined conclusively by said Secretary, incurred in the repair, resurfacing, and improvement of the Arrowrock Dam and in increasing the height thereof (to provide additional capacity to offset past and, to some extent, future losses of capacity resulting from the deposit of silt in the said reservoir) in twenty annual installments instead of requiring the payment of all of such operation and maintenance costs in one year as provided in section 492 of this title: *Provided*, That such costs, for the purpose of any amendatory contracts affecting the construction charges of Arrowrock Dam that may be entered into as authorized by subchapter X of this chapter, may, in the discretion of the Secretary, be treated as part of the construction charges of said dam, and as payable in the same manner as such charges.

(Apr. 22, 1940, ch. 132, 54 Stat. 155.)

REFERENCES IN TEXT

Subchapter X (§ 485 et seq.) of this chapter, referred to in text, was in the original a reference to act of Aug. 4, 1939 (53 Stat. 1187), which is known as the Reclamation Project Act of 1939, and which enacted subchapter X of this chapter, sections 375a, 380a, and 387 to 389 of this title, and section 16d of former Title 41, Public Contracts, and enacted provision set out as a note under section 485j of this title. For complete classification of this Act to the Code, see section 485k of this title and Tables.

### § 592. Omitted

CODIFICATION

Section, act Feb. 28, 1919, ch. 78, 40 Stat. 1210, granted leave of absence to any entryman who, prior to Feb. 28, 1919, made entry upon land withdrawn under reclamation law, until water became available for irrigation.

### § 593. Flathead irrigation project, Montana

The provisions of sections 441 and 442 of this title, authorizing the assignment under certain conditions of homesteads within reclamation projects, and of subchapter XIV of this chapter, authorizing under certain conditions the issuance of patents on reclamation entries, and for other purposes, are hereby extended and made applicable to lands within the Flathead irrigation project, in the former Flathead Indian Reservation, Montana, but such lands shall otherwise be subject to the provisions of the Act of Congress approved April 23, 1904 (Thirty-third Statutes at Large, page 302), as amended by the Act of Congress approved May 29, 1908 (Thirty-fifth Statutes at Large, page 448): *Provided*, That the lien reserved to the United States on the land patented, as provided for in section 542 of this title, shall include all sums due or to become due to the United States on account of the Indian price of such land.

(July 17, 1914, ch. 143, 38 Stat. 510.)

REFERENCES IN TEXT

Subchapter XIV (§ 541 et seq.) of this chapter, referred to in text, was in the original a reference to act Aug. 9, 1912, 37 Stat. 265.

Act April 23, 1904, referred to in text, is not classified to the Code.

### § 593a. Construction, operation, and maintenance of Hungry Horse Dam

For the purpose of irrigation and reclamation of arid lands, for controlling floods, improving navigation, regulating the flow of the South Fork of the Flathead River, for the generation of electric energy, and for other beneficial uses primarily in the State of Montana but also in downstream areas, the Secretary of the Interior is authorized and directed to proceed as soon as practicable with the construction, operation, and maintenance of the proposed Hungry Horse Dam (including facilities for generating electric energy) on the South Fork of the Flathead River, Flathead County, Montana, to such a height as may be necessary to impound not less than one million acre-feet of water. The Hungry Horse project shall be subject to the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto).

The Secretary of the Interior is authorized to complete, as soon as the necessary additional material is available, the construction of the Hungry Horse Dam so as to provide a storage reservoir of the maximum usable and feasible capacity.

(June 5, 1944, ch. 234, §§ 1, 2, 58 Stat. 270; Pub. L. 85–428, May 29, 1958, 72 Stat. 147.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AMENDMENTS

1958—Pub. L. 85–428 provided that the Hungry Horse project shall be subject to the Federal reclamation laws.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 5, 1944, authorized appropriation of such sums as might be necessary to carry out the purpose of this section and section 593b of this title.

### § 593b. Construction of additional works for irrigation purposes

The Secretary of the Interior is authorized to construct, operate, and maintain under the provisions of the Federal reclamation laws (Act June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), such additional works as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and findings thereon have been made by the Secretary of the Interior as provided in such Federal reclamation laws; and, within the limits of the water users' repayment ability, such report may be predicated on allocation to irrigation of an appropriate portion of the cost of constructing said dam and reservoir. Said dam and reservoir and said irrigation works may be utilized for irrigation purposes only pursuant to the provisions of said Federal reclamation laws.

(June 5, 1944, ch. 234, § 3, 58 Stat. 271.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 5, 1944, authorized appropriation of such sums as might be necessary to carry out the purpose of this section and section 593a of this title.

### § 594. Omitted

CODIFICATION

Section, act June 27, 1906, ch. 3559, § 4, 34 Stat. 520, provided that settlers who had actually established themselves in town sites of Heyburn and Rupert, Idaho, prior to Mar. 5, 1906, in permanent buildings not easily moved, should be given right to purchase lots so built upon at an appraised value. Section was based on part of section 4 of act June 27, 1906. The remainder of section 4 is classified to sections 561 and 568 of this title.

### § 595. King Hill project, Idaho

King Hill project, Idaho, shall be subject to the reclamation Act of June seventeenth, nineteen hundred and two, and all Acts amendatory thereof or supplementary thereto, so far as applicable and consistent with contract made prior to July 1, 1918, between the United States and King Hill irrigation district: *Provided*, That for the purposes of issuing patent to lands reclaimed, the reclamation effected by the operations of the United States Reclamation Service may be considered by the Secretary of the Interior as equivalent to reclamation effected by the State of Idaho, under section 641 of this title.

(July 1, 1918, ch. 113, 40 Stat. 674.)

REFERENCES IN TEXT

The reclamation Act of June seventeenth, nineteen hundred and two, 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 this chapter. For complete classification of act of June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

CHANGE OF NAME

The Reclamation Service, established in July 1902, changed to the Bureau of Reclamation on June 20, 1923, then to the Water and Power Resources Service on Nov. 6, 1979, and then to the Bureau of Reclamation on May 18, 1981. See 155 Dep't of the Interior, Departmental Manual 1.1 (2008 repl.); Sec'y Hubert Work, Dep't of the Interior, Order (June 20, 1923); Sec'y Cecil D. Andrus, Dep't of the Interior, Secretarial Order 3042, §§ 1, 4 (Nov. 6, 1979); Sec'y James G. Watt, Dep't of the Interior, Secretarial Order 3064, §§ 3, 5 (May 18, 1981).

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 596. Omitted

CODIFICATION

Section, act May 20, 1921, ch. 9, 42 Stat. 7, gave ex-service men, successful at drawing held March 5, 1920, but unable to make entry because of reinstatement of conflicting claims, preference for not less than thirty days before next opening of lands to other entry.

### § 597. Riverton project, Wyoming

Lands within and in the vicinity of the ceded portion of the Wind River or Shoshone Reservation, and included in the Riverton project, Wyoming, shall be subject to all the charges, terms, conditions, provisions, and limitations of the Reclamation Act and Acts amendatory thereof or supplementary thereto, and suitable provision shall be made by the Secretary of the Interior in fixing the charges to provide for reimbursement of the entire expenditure in accordance with the reclamation law and other laws applicable to said lands.

When any land on the project is opened to homestead entry under the terms of the "Reclamation Law," the entryman shall pay to the United States for the lands the sum of $1.50 per acre as provided in section 2 of the Act approved March 3, 1905 (volume 33, Statutes at Large, page 1016), to be credited to the fund established by said Act of 1905, together with the proceeds from the sale of town sites established in said project under the "Reclamation Law".

(June 5, 1920, ch. 235, § 1, 41 Stat. 915; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1404.)

REFERENCES IN TEXT

The Reclamation Act and Acts amendatory thereof or supplementary thereto, the reclamation law, and the "Reclamation Law", referred to in text, probably mean act June 17, 1902, ch. 1093, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto. See act June 5, 1920, ch. 235, 41 Stat. 913, under the heading "RECLAMATION SERVICE", and act Mar. 4, 1921, ch. 161, 41 Stat. 1402, under the heading "RECLAMATION SERVICE", which identify "the reclamation law". Act June 17, 1902, popularly known as the Reclamation Act, is classified generally to this chapter. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of this title and Tables.

Act of March 3, 1905, referred to in text, is act Mar. 3, 1905, ch. 1452, 33 Stat. 1016, which is not classified to the Code.

CODIFICATION

The first par. of this section is from part of the first section of act June 5, 1920. The second par. of this section is from a proviso in the first section of act Mar. 4, 1921. For classification of other provisions of these Acts, see Tables.

RESTORATION OF LANDS TO PUBLIC DOMAIN

Act Aug. 15, 1953, ch. 509, § 2, 67 Stat. 612, set out as a note under section 611 of Title 25, Indians, provided that unentered and vacant lands of the Riverton reclamation project within the ceded portion of the Wind River Indian Reservation should be restored to the public domain for administration, use, occupancy, and disposal under the reclamation and public land laws of the United States.

### § 597a. Easements for Bull Lake Dam and Reservoir

There is granted to the United States and its assigns, including its successors in control of the operation and maintenance of the Riverton reclamation project, Wyoming, a flowage easement and an easement for a dam site, together with all rights and privileges incident to the use and enjoyment of said easements, over tribal and allotted lands of the Wind River or Shoshone Indian Reservation within that part of said reservation required for the construction of the Bull Lake Dam and Reservoir on Bull Lake Creek, a tributary of the Wind River, in connection with the Riverton reclamation project, Wyoming, and for the impounding of approximately one hundred and fifty-five thousand acre-feet of water, including a ten-foot freeboard: *Provided*, That in consideration of the said rights insofar as they affect tribal lands there shall be deposited into the Treasury of the United States pursuant to the provisions of section 155 of title 25, for credit to the Shoshone and Arapaho Indians of the Wind River Reservation the sum of $6,500, from moneys appropriated for the construction of the said Bull Lake Dam and Reservoir, and the said sum when so credited shall draw interest at the rate of 4 per centum per annum.

(Mar. 14, 1940, ch. 51, § 1, 54 Stat. 49.)

### § 597b. Compensation for easements

Compensation to the individual Indian owners of the allotted lands within the area described in section 597a of this title shall be made from moneys appropriated for the construction of the Bull Lake Dam and Reservoir at the appraised value of the easements: *Provided*, That should any individual Indian not agree to accept the appraised value of the easement as it affects his land, the Secretary of the Interior be, and he is, authorized to acquire such easement by condemnation proceedings.

(Mar. 14, 1940, ch. 51, § 2, 54 Stat. 49.)

### § 597c. Reservation of Indians' right to use lands

The easements granted in section 597a of this title shall not interfere with the use by the Indians of the Wind River or Shoshone Indian Reservation of the lands dealt with in sections 597a to 597d of this title and the waters of Bull Lake Creek and the reservoir insofar as the use by the Indians shall not be inconsistent with the use of said lands for reservoir purposes.

(Mar. 14, 1940, ch. 51, § 3, 54 Stat. 49.)

### § 597d. Regulations

The Secretary of the Interior is authorized to perform any and all acts and to prescribe such regulations as may be necessary to carry out the provisions of sections 597a to 597d of this title.

(Mar. 14, 1940, ch. 51, § 4, 54 Stat. 49.)

### § 598. Salt River project, Arizona; sale of water power

Whenever a development of power is necessary for the irrigation of lands under the Salt River reclamation project, Arizona, or an opportunity is afforded for the development of power under said project, the Secretary of the Interior is authorized, giving preference to municipal purposes, to enter into contracts for a period not exceeding fifty years for the sale of any surplus power so developed, and the money derived from such sales shall be placed to the credit of said project for disposal as provided in the contract between the United States of America and the Salt River Valley Water Users' Association, approved September 6, 1917: *Provided*, That no contract shall be made for the sale of such surplus power which will impair the efficiency of said project: *Provided*, *however*, That no such contract shall be made without the approval of the legally organized water-users' association or irrigation district which has contracted with the United States to repay the cost of said project: *Provided further*, That the charge for power may be readjusted at the end of five-, ten-, or twenty-year periods after the beginning of any contract for the sale of power in a manner to be described in the contract.

(Sept. 18, 1922, ch. 323, 42 Stat. 847.)

### § 599. Omitted

CODIFICATION

Section, act Aug. 17, 1916, ch. 349, 39 Stat. 516, provided that any person who established residence and made improvements on land within Yuma reclamation project for two years prior to August 17, 1916, should have right to make entry for the farm unit and have residence and improvements credited on his final proof.

### § 600. Minidoka project, Idaho; sales of water from American Falls Reservoir

No contractor shall secure a right to the use of water from American Falls Reservoir, Minidoka project, except under a contract containing the provision that the contractor shall, as a part of the construction cost, pay interest at the rate of six per centum per annum upon the contractor's proper proportionate share, as found by the Secretary of the Interior, of the moneys advanced by the United States on account of the construction of said reservoir prior to the date of the contract.

(June 5, 1924, ch. 264, 43 Stat. 417.)

### § 600a. Arch Hurley Conservancy District project, New Mexico

The Secretary of the Interior is authorized to construct a Federal reclamation project for the irrigation of the lands of the Arch Hurley Conservancy District in New Mexico under the Federal reclamation laws: *Provided*, That construction work is not to be initiated on said irrigation project until (a) the project shall have been found to be feasible under section 412 of this title, but the project may be found to be financially feasible if the Secretary of the Interior finds that the amount to be expended from the

reclamation fund can be repaid by the District, and further that the amount of money to be expended from the reclamation fund, plus the amount of money which has been made available from other sources (for the estimated period of construction), equals the estimated cost of construction; (b) a contract shall have been executed with an irrigation or conservation district embracing the land to be irrigated under said project, which contract shall obligate the contracting district to repay the cost of construction of said project met by expenditure of moneys from the reclamation fund in forty equal annual installments, without interest; (c) contracts shall have been made with each owner of more than one hundred and sixty irrigable acres under said project, by which he, his successors, and assigns shall be obligated to sell all of his land in excess of one hundred and sixty irrigable acres at or below prices fixed by the Secretary of the Interior and within the time to be fixed by said Secretary, no water to be furnished to the land of any such large landowner refusing or failing to execute such contract.

(Aug. 2, 1937, ch. 557, 50 Stat. 557; Apr. 9, 1938, ch. 134, 52 Stat. 211; Aug. 9, 1955, ch. 637, § 1, 69 Stat. 556.)

AMENDMENTS

1955—Act Aug. 9, 1955, struck out cl. (d) which required landowners to contract to pay to the United States one-half of the price above the appraised value received for the sale of land.

1938—Act Apr. 9, 1938, inserted ''but the project may be found feasible if the Secretary of the Interior finds that the amount to be expended from the reclamation fund can be repaid by the District, and further that the amount of money to be expended from the reclamation fund, plus the amount of money which has been made available from other sources (for the estimated period of construction), equals the estimated cost of construction'' after ''section 412 of this title''.

AMENDMENT OF CONTRACTS

Section 2 of act Aug. 9, 1955, provided that: ''The Secretary of the Interior is authorized to amend any contract, which has been entered into prior to the date of enactment of this Act [Aug. 9, 1955], to conform with the provisions of the first section of this Act [amending this section]. The consent of the United States is hereby given to the recording, at the expense of the party benefited thereby, of any such amendment contract and to the simultaneous discharge of record of the original contract. The consent of the United States is likewise given to the discharge of record, at the expense of the party benefited thereby, of any contract which the Secretary of the Interior or his duly authorized agent finds is rendered nugatory by the enactment of this Act [amending this section].''

ENFORCEMENT OF CONTRACT PROVISIONS; COMPLETED TRANSACTIONS AND PAYMENTS

Section 1 of act Aug. 9, 1955, provided, in part, that: ''No provision with respect to the matters covered in said clause (d) [former cl. (d) of this section] which is contained in any contract entered into prior to the date of enactment of this Act [Aug. 9, 1955] shall, except as is otherwise provided by this Act [amending this section], be enforced by the United States. Nothing contained in this section shall affect (1) the retention and application by the United States of any payments which have been made prior to the date of enactment of this Act [Aug. 9, 1955] in accordance with any such provision of a contract, (2) the obligation of any party to the United States with respect to any payment which is due to the United States under any such provision but not paid upon the date of enactment of this Act [Aug. 9, 1955], and the application by the United States of any such payment in accordance with the terms of such contract, or (3) the enforcement of any such obligation by refusal to deliver water to lands covered by contractual provisions executed in accordance with said clause (d), except in those cases, if any, in which a sale or transfer consummated between December 27, 1938, and the date of enactment of this Act [Aug. 9, 1955] is only discovered after such date of enactment to have been made contrary to such contractual provisions or to said clause (d).''

## § 600b. Canadian River project, Texas

For the purposes of irrigating land, delivering water for industrial and municipal use, controlling floods, providing recreation and fish and wildlife benefits, and controlling and catching silt, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), is authorized to construct, operate, and maintain the Canadian River reclamation project, Texas, described in the report of the Commissioner of Reclamation approved by the Secretary May 3, 1950, entitled ''Plan for Development, Canadian River Project, Texas'', Project Planning Report Number 5–12.22–1, at an estimated cost of $86,656,000, the impounding works whereof shall be located at a suitable site on the Canadian River in that area known as the Panhandle of Texas. In addition to the impounding works, the project shall include such main canals, pumping plants, distribution and drainage systems, and other works as are necessary to accomplish the purposes of sections 600b and 600c of this title. The use by the project of waters arising in Ute and Pajarito Creeks, New Mexico, shall be only such use as does not conflict with use, present or potential, of such waters for beneficial consumptive purposes in New Mexico.

(Dec. 29, 1950, ch. 1183, § 1, 64 Stat. 1124.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is popularly known as the Reclamation Act, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

AUTHORIZATION OF APPROPRIATIONS

Section 3 of act Dec. 29, 1950, provided that: ''There are hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this Act [enacting this section and section 600c of this title].''

CANADIAN RIVER PROJECT PREPAYMENT

Pub. L. 105–316, Oct. 30, 1998, 112 Stat. 2999, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Canadian River Project Prepayment Act'.

''SEC. 2. DEFINITIONS.

''For the purposes of this Act:

''(1) The term 'Authority' means the Canadian River Municipal Water Authority, a conservation and reclamation district of the State of Texas.

''(2) The term 'Canadian River Project Authorization Act' means the Act entitled 'An Act to authorize

the construction, operation, and maintenance by the Secretary of the Interior of the Canadian River reclamation project, Texas', approved December 29, 1950 (ch. 1183; 64 Stat. 1124) [enacting this section, section 600c of this title, and provisions set out as a note above].

''(3) The term 'Project' means all of the right, title and interest in and to all land and improvements comprising the pipeline and related facilities of the Canadian River Project authorized by the Canadian River Project Authorization Act.

''(4) The term 'Secretary' means the Secretary of the Interior.

''SEC. 3. PREPAYMENT AND CONVEYANCE OF PROJECT.

''(a) IN GENERAL.—(1) In consideration of the Authority accepting the obligation of the Federal Government for the Project and subject to the payment by the Authority of the applicable amount under paragraph (2) within the 360-day period beginning on the date of the enactment of this Act [Oct. 30, 1998], the Secretary shall convey the Project to the Authority, as provided in section 2(c)(3) of the Canadian River Project Authorization Act (64 Stat. 1124) [section 600c(c)(3) of this title].

''(2) For purposes of paragraph (1), the applicable amount shall be—

''(A) $34,806,731, if payment is made by the Authority within the 270-day period beginning on the date of the enactment of this Act; or

''(B) the amount specified in subparagraph (A) adjusted to include interest on that amount since the date of the enactment of this Act at the appropriate Treasury bill rate for an equivalent term, if payment is made by the Authority after the period referred to in subparagraph (A).

''(3) If payment under paragraph (1) is not made by the Authority within the period specified in paragraph (1), this Act shall have no force or effect.

''(b) FINANCING.—Nothing in this Act shall be construed to affect the right of the Authority to use a particular type of financing.

''SEC. 4. RELATIONSHIP TO EXISTING OPERATIONS.

''(a) IN GENERAL.—Nothing in this Act shall be construed as significantly expanding or otherwise changing the use or operation of the Project from its current use and operation.

''(b) FUTURE ALTERATIONS.—If the Authority alters the operations or uses of the Project it shall comply with all applicable laws or regulations governing such alteration at that time.

''(c) RECREATION.—The Secretary of the Interior, acting through the National Park Service, shall continue to operate the Lake Meredith National Recreation Area at Lake Meredith.

''(d) FLOOD CONTROL.—The Secretary of the Army, acting through the Corps of Engineers, shall continue to prescribe regulations for the use of storage allocated to flood control at Lake Meredith as prescribed in the Letter of Understanding entered into between the Corps, the Bureau of Reclamation, and the Authority in March and May 1980.

''(e) SANFORD DAM PROPERTY.—The Authority shall have the right to occupy and use without payment of lease or rental charges or license or use fees the property retained by the Bureau of Reclamation at Sanford Dam and all buildings constructed by the United States thereon for use as the Authority's headquarters and maintenance facility. Buildings constructed by the Authority on such property, or past and future additions to Government constructed buildings, shall be allowed to remain on the property. The Authority shall operate and maintain such property and facilities without cost to the United States.

''SEC. 5. RELATIONSHIP TO CERTAIN CONTRACT OBLIGATIONS.

''(a) PAYMENT OBLIGATIONS EXTINGUISHED.—Provision of consideration by the Authority in accordance with section 3(b) shall extinguish all payment obligations under contract numbered 14–06–500–485 between the Authority and the Secretary.

''(b) OPERATION AND MAINTENANCE COSTS.—After completion of the conveyance provided for in section 3, the Authority shall have full responsibility for the cost of operation and maintenance of Sanford Dam, and shall continue to have full responsibility for operation and maintenance of the Project pipeline and related facilities.

''(c) IN GENERAL.—Rights and obligations under the existing contract No. 14–06–500–485 between the Authority and the United States, other than provisions regarding repayment of construction charge obligation by the Authority and provisions relating to the Project aqueduct, shall remain in full force and effect for the remaining term of the contract.

''SEC. 6. RELATIONSHIP TO OTHER LAWS.

''Upon conveyance of the Project under this Act, the Reclamation Act of 1902 (82 Stat. 388) [probably means act June 17, 1902, ch. 1093, 32 Stat. 388, see Short Title note under section 371 of this title] and all Acts amendatory thereof or supplemental thereto shall not apply to the Project.

''SEC. 7. LIABILITY.

''Except as otherwise provided by law, effective on the date of conveyance of the Project under this Act, the United States shall not be liable under any law for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property.''

## § 600c. Nonreimbursable costs

### (a) Construction, operation, and maintenance costs

Notwithstanding any recommendations in the report mentioned in section 600b of this title to the contrary, only the costs of construction allocable to flood control and, upon approval by the President of a suitable plan thereof, to the preservation and propagation of fish and wildlife, and operation and maintenance costs allocable to the same purposes, shall be nonreimbursable.

### (b) Conditions precedent to construction

Actual construction of the project herein authorized shall not be commenced, and no construction contract awarded therefor, until (1) the Congress shall have consented to the interstate compact between the States of New Mexico, Oklahoma, and Texas agreed upon by the Canadian River Compact Commission at Santa Fe, New Mexico, December 6, 1950, in conformity with Public Law 491, Eighty-first Congress, and (2) repayment of that portion of the actual cost of constructing the project which is allocated to municipal and industrial water supply and of interest on the unamortized balance thereof at a rate (which rate shall be certified by the Secretary of the Treasury) equal to the average rate paid by the United States on its long-term loans outstanding at the time the repayment contract is negotiated minus the amount of such net revenues as may be derived from temporary water supply contracts or from other sources prior to the close of the repayment period, shall have been assured by a contract satisfactory to the Secretary, with one central repayment contract organization, the term of which shall not exceed fifty years from the date of completion of the municipal and industrial water supply features of the project as determined by the Secretary.

**(c) Repayment contract**

The repayment contract shall provide, among other things, (1) that the holder thereof shall have a first right, to which right the rights of the holders of any other type of contract shall be subordinate, to a stated share or quantity of the project's available water supply for use by its constituent industrial and municipal water users during the repayment period and a permanent right to such share or quantity thereafter subject to payment of such costs as may be incurred by the United States in its operation and maintenance of any part of the project works; (2) that, subject to such rules and regulations as the Secretary may prescribe, the care, operation, and maintenance of such portions of the pipeline and related facilities as are used solely for delivering such water to the contract holder and its constituent organizations shall, as soon as is practicable after completion of the municipal and industrial water supply features of the project, pass to the contract holder or to an organization which is designated by it for that purpose and which is satisfactory to the Secretary; and (3) that title to such portions of the pipeline and related facilities shall in like manner pass to the contract holder or its designee or designees upon payment to the United States of all obligations arising under sections 600b and 600c of this title or incurred in connection with the project.

(Dec. 29, 1950, ch. 1183, § 2, 64 Stat. 1124.)

REFERENCES IN TEXT

Public Law 491, Eighty-first Congress, referred to in subsec. (b), is act Apr. 29, 1950, ch. 135, 64 Stat. 93, which is set out as a note below.

CONSENT OF CONGRESS TO COMPACT

Act Apr. 29, 1950, ch. 135, 64 Stat. 93, provided: "That the consent of the Congress is hereby given to the States of Oklahoma, Texas, and New Mexico to negotiate and enter into a compact not later than June 30, 1953, providing for an equitable apportionment among the said States of the waters of the Canadian River and its tributaries, upon the condition that one suitable person, who shall be appointed by the President of the United States, shall participate in said negotiations as the representative of the United States and shall make report to the Congress of the proceedings and of any compact entered into. Said compact shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been ratified by the legislature of each of the States aforesaid and approved by the Congress of the United States."

**§ 600d. Sanford Reservoir recreation facilities; allocation of water, reservoir capacity, or joint project costs of Canadian River project; municipal water use priorities; agreements for operation, maintenance, or additional development of project lands or facilities; disposal of project lands or facilities; nonreimbursable costs; cognizance of effect of fish and wildlife plan**

The Secretary of the Interior is authorized to investigate, plan, construct, operate and maintain, or otherwise provide for basic public outdoor recreation facilities at the Sanford Reservoir area, Canadian Federal reclamation project, to acquire or otherwise include within the project area such adjacent lands or interests therein as are necessary for present or future public recreation use, and to provide for the public use and enjoyment of project lands, facilities, and water areas in a manner coordinated with other project purposes: *Provided*, That this section shall not provide the Secretary with a basis for allocation to recreation of water, reservoir capacity, or joint project costs of the Canadian River project nor affect the priority for municipal use of water stored in the Sanford Reservoir, or the priority of use for municipal purposes of the capacity of said reservoir. The Secretary is authorized to enter into agreements with Federal agencies or State or local public bodies for the operation, maintenance, or additional development of project lands or facilities, or to dispose of project lands or facilities to Federal agencies or State or local public bodies by lease, transfer, conveyance or exchange upon such terms and conditions as will best promote the development and operation of such lands or facilities in the public interest for recreation purposes. The cost of providing basic recreation facilities shall be nonreimbursable. In carrying out the aforesaid activities the Secretary shall take cognizance of the effect of the fish and wildlife plan approved by the President December 19, 1962, pursuant to sections 600b and 600c of this title in providing facilities at the Canadian River project which have general recreation utility.

(Pub. L. 88–536, § 1, Aug. 31, 1964, 78 Stat. 744.)

**§ 600e. Authorization of appropriations for public recreation facilities**

There are authorized to be appropriated such amounts, but not more than $1,100,000, as may be necessary for the investigation, preparation of plans, construction and acquisition of lands authorized in section 600d of this title.

(Pub. L. 88–536, § 2, Aug. 31, 1964, 78 Stat. 744.)

## SUBCHAPTER XVIII—CIBOLO PROJECT, TEXAS

**§§ 600f to 600f–4. Omitted**

CODIFICATION

Section 600f, Pub. L. 93–493, title II, § 201, Oct. 27, 1974, 88 Stat. 1491, related to authorization for construction, operation, and maintenance of Cibolo project.

Section 600f–1, Pub. L. 93–493, title II, § 202, Oct. 27, 1974, 88 Stat. 1491, related to basis of interest rate on unpaid balance of reimbursable costs of Cibolo project.

Section 600f–2, Pub. L. 93–493, title II, § 203, Oct. 27, 1974, 88 Stat. 1491, related to water delivery and reimbursable construction cost repayment contracts.

Section 600f–3, Pub. L. 93–493, title II, § 204, Oct. 27, 1974, 88 Stat. 1492, related to conservation and development of fish and wildlife resources and enhancement of recreation.

Section 600f–4, Pub. L. 93–493, title II, § 205, Oct. 27, 1974, 88 Stat. 1492, related to authorization of appropriations to defray construction costs of Cibolo project.

## SUBCHAPTER XIX—NUECES RIVER PROJECT, TEXAS

**§§ 600g to 600g–4. Omitted**

CODIFICATION

Section 600g, Pub. L. 93–493, title X, § 1001, Oct. 27, 1974, 88 Stat. 1496, related to authorization for construc-

tion, operation, and maintenance of Nueces River project.

Section 600g–1, Pub. L. 93–493, title X, § 1002, Oct. 27, 1974, 88 Stat. 1496, related to repayment costs of Nueces River project.

Section 600g–2, Pub. L. 93–493, title X, § 1003, Oct. 27, 1974, 88 Stat. 1496, related to water delivery and reimbursable construction cost repayment contracts.

Section 600g–3, Pub. L. 93–493, title X, § 1004, Oct. 27, 1974, 88 Stat. 1497, related to conservation and development of fish and wildlife resources and enhancement of recreation opportunities.

Section 600g–4, Pub. L. 93–493, title X, § 1005, Oct. 27, 1974, 88 Stat. 1497, related to authorization of appropriations for Nueces River project.

## SUBCHAPTER XX—KLAMATH PROJECT, OREGON-CALIFORNIA

### § 601. Omitted

CODIFICATION

Section, act Feb. 9, 1905, ch. 567, 33 Stat. 714, related to changes in levels of lakes and subjection of lands to reclamation law.

### §§ 602 to 609. Repealed. June 17, 1944, ch. 261, § 2(a), 58 Stat. 279

Section 602, act May 27, 1920, ch. 209, § 1, 41 Stat. 627, related to notice of lands subject to entry and conditions and reservations in patents.

Section 603, act May 27, 1920, ch. 209, § 2, 41 Stat. 628, related to assessment of past expenditure for benefit of reclamation fund.

Section 604, act May 27, 1920, ch. 209, § 3, 41 Stat. 628, related to survey and opening of lands to entry.

Section 605, act May 27, 1920, ch. 209, § 4, 41 Stat. 628, related to additional payments; installments; forfeiture for nonpayment, etc.

Section 606, act May 27, 1920, ch. 209, § 5, 41 Stat. 628, related to preference rights of World War I veterans.

Section 607, act May 27, 1920, ch. 209, § 6, 41 Stat. 629, related to squatter's rights not recognized, time of entry, and penalty for premature entry.

Section 608, act May 27, 1920, ch. 209, § 7, 41 Stat. 629, related to Lands in Klamath Lake Bird Reservation.

Section 609, act May 27, 1920, ch. 209, § 8, 41 Stat. 629, related to powers of Secretary of the Interior in relation to project.

### §§ 610 to 612. Omitted

CODIFICATION

Section 610, act May 25, 1926, ch. 383, § 14(a–1), as added June 23, 1932, ch. 273, 47 Stat. 332, related to reclassification of lands within the Klamath irrigation district.

Section 611, act July 1, 1946, ch. 529, 60 Stat. 366, related to availability of revenues from lease of Tule Lake marginal lands for refunds, was from the Interior Department Appropriation Act, 1947. Similar provisions were contained in the following prior appropriation acts: July 3, 1945, ch. 262, 59 Stat. 340; June 28, 1944, ch. 298, 58 Stat. 487; July 12, 1943, ch. 219, 57 Stat. 473; July 2, 1942, ch. 473, 56 Stat. 533; June 28, 1941, ch. 259, 55 Stat. 332; June 18, 1940, ch. 395, 54 Stat. 434.

Section 612, acts June 17, 1944, ch. 261, § 2(b)–(d), 58 Stat. 279; Aug. 1, 1956, ch. 828, § 2(e), 70 Stat. 799, related to lands of the Klamath project being subject to the reclamation laws.

CONTRACT APPROVED

Section 1 of act June 17, 1944, ch. 261, 58 Stat. 279, provided that the contract dated Apr. 28, 1943, negotiated by the Secretary of the Interior with the Klamath Drainage District was approved and that the Secretary was authorized to execute such contract.

RECLAMATION LAWS

Section 3 of act June 17, 1944, ch. 261, 58 Stat. 279, provided that section 612 was part of the Federal reclamation laws.

REPAYMENT CONTRACT WITH TULE LAKE IRRIGATION DISTRICT

Act Aug. 1, 1956, ch. 828, 70 Stat. 799, authorized Secretary of the Interior to execute a repayment contract with Tule Lake Irrigation District.

## SUBCHAPTER XXI—GILA PROJECT, ARIZONA

### §§ 613 to 613e. Omitted

CODIFICATION

Section 613, act July 30, 1947, ch. 382, § 1, 61 Stat. 628, related to reduction in area of Gila project.

Section 613a, act July 30, 1947, ch. 382, § 2, 61 Stat. 628, related to acquisition of property within or adjacent to Gila project.

Section 613b, act July 30, 1947, ch. 382, § 3, 61 Stat. 629, related to authority of Secretary of the Interior to dispose of land within Gila project.

Section 613c, act July 30, 1947, ch. 382, § 4, 61 Stat. 629, related to applicability of project land to State laws and liability of such land for assessments and taxes.

Section 613d, act July 30, 1947, ch. 382, § 5, 61 Stat. 629, related to repayment of construction costs for Gila project in installments.

Section 613e, act July 30, 1947, ch. 382, § 7, 61 Stat. 630, related to powers of Secretary of the Interior and his duly authorized representatives.

RECLAMATION LAW; AMENDMENT OF OTHER LAWS

Section 8 of act July 30, 1947, ch. 382, 61 Stat. 630, provided that this subchapter be deemed a supplement to the reclamation law and that nothing in this subchapter be construed to amend subchapter I of chapter 12A of this title.

## SUBCHAPTER XXII—WASHOE PROJECT, NEVADA-CALIFORNIA

### §§ 614 to 614d. Omitted

CODIFICATION

Section 614, act Aug. 1, 1956, ch. 809, § 1, 70 Stat. 775, related to authorization for construction, operation, and maintenance of Washoe project, which was revoked by Pub. L. 101–618, title II, § 205(c), Nov. 16, 1990, 104 Stat. 3307.

Section 614a, act Aug. 1, 1956, ch. 809, § 2, 70 Stat. 775, related to applicability of reclamation laws to duties of Secretary under this subchapter, repayment of construction costs, and contracts for supplemental water supply.

Section 614b, act Aug. 1, 1956, ch. 809, § 3, 70 Stat. 776, related to facilities for access, public health and safety, and protection of public property on lands of Washoe project.

Section 614c, act Aug. 1, 1956, ch. 809, § 4, 70 Stat. 777, related to facilities for development of fish and wildlife resources on the project area.

Section 614d, acts Aug. 1, 1956, ch. 809, § 5, 70 Stat. 777; Aug. 21, 1958, Pub. L. 85–706, 72 Stat. 705, provided an authorization for appropriations for the project.

## SUBCHAPTER XXIII—WASHITA RIVER BASIN PROJECT, OKLAHOMA

### §§ 615 to 615e. Omitted

CODIFICATION

Section 615, act Feb. 25, 1956, ch. 71, § 1, 70 Stat. 28, authorized construction, operation, and maintenance of Washita River Basin Project, Oklahoma.

Section 615a, act Feb. 25, 1956, ch. 71, §2, 70 Stat. 28, related to allocation of construction costs, adjustments, and repayment of construction costs.

Section 615b, act Feb. 25, 1956, ch. 71, §3, 70 Stat. 30, required construction in units or stages.

Section 615c, act Feb. 25, 1956, ch. 71, §4, 70 Stat. 30, related to construction, operation, and maintenance of public parks and recreational facilities on lands adjacent to Washita project.

Section 615d, act Feb. 25, 1956, ch. 71, §5, 70 Stat. 30, related to expenditures for Foss and Fort Cobb Reservoirs.

Section 615e, act Feb. 25, 1956, ch. 71, §6, 70 Stat. 30, related to authorization of appropriations for this project.

FOSS RESERVOIR MASTER CONSERVANCY DISTRICT; FEASIBILITY STUDY; REVISION OF REPAYMENT CONTRACT

Pub. L. 90–311, May 18, 1968, 82 Stat. 124, directed Secretary of the Interior to conduct feasibility studies in areas serving Foss Reservoir Master Conservancy District to determine alternative water sources and methods of alleviating problems associated with poor quality and supply of water stored in Foss Reservoir, provided for assistance to Foss Reservoir Master Conservancy District in developing an adequate interim water supply, and authorized Secretary to use any available funds to carry out this Act.

## SUBCHAPTER XXIV—CROOKED RIVER PROJECT, OREGON

### §§ 615f to 615j–1. Omitted

CODIFICATION

Section 615f, acts Aug. 6, 1956, ch. 980, §1, 70 Stat. 1058; Sept. 14, 1959, Pub. L. 86–271, §1, 73 Stat. 554; Sept. 18, 1964, Pub. L. 88–598, §1, 78 Stat. 954, authorized construction, operation, and maintenance of the Crooked River Project, Oregon.

Section 615f–1, Pub. L. 88–598, §3, Sept. 18, 1964, 78 Stat. 954, related to availability of supplemental power required for irrigation water pumping.

Section 615g, act Aug. 6, 1956, ch. 980, §2, 70 Stat. 1058, related to allocation of costs of construction, operation, and maintenance of this project.

Section 615h, act Aug. 6, 1956, ch. 980, §3, 70 Stat. 1059, related to construction, operation, and maintenance of public recreation facilities in connection with this project.

Section 615i, act Aug. 6, 1956, ch. 980, §4, 70 Stat. 1059, related to preservation and propagation of fish and wildlife in connection with this project.

Section 615j, act Aug. 6, 1956, ch. 980, §5, 70 Stat. 1059, authorized appropriations for this project.

Section 615j–1, Pub. L. 88–598, §2, Sept. 18, 1964, 78 Stat. 954, authorized appropriations for new works in project extension.

## SUBCHAPTER XXV—LITTLE WOOD RIVER PROJECT, IDAHO

### §§ 615k to 615n. Omitted

CODIFICATION

Section 615k, act Aug. 6, 1956, ch. 981, §1, 70 Stat. 1059, authorized construction, operation, and maintenance of Little Wood River Project, Idaho.

Section 615*l*, act Aug. 6, 1956, ch. 981, §2, 70 Stat. 1059, related to construction, operation, and maintenance of public recreational facilities in connection with this project.

Section 615m, act Aug. 6, 1956, ch. 981, §3, 70 Stat. 1059, related to preservation of fish and wildlife in connection with this project and the operation of this project in accordance with water rights.

Section 615n, act Aug. 6, 1956, ch. 981, §4, 70 Stat. 1060, related to authorization of appropriations for this project.

## SUBCHAPTER XXVI—SAN ANGELO PROJECT, TEXAS

### §§ 615*o* to 615r. Omitted

CODIFICATION

Section 615*o*, Pub. L. 85–152, §1, Aug. 16, 1957, 71 Stat. 372; Pub. L. 103–434, title V, §501(a), Oct. 31, 1994, 108 Stat. 4538, authorized construction, operation, and maintenance of San Angelo Project, Texas.

Section 615p, Pub. L. 85–152, §2, Aug. 16, 1957, 71 Stat. 372, related to contract provisions concerning construction, operation, and maintenance of this project and to rates charged for water supply.

Section 615q, Pub. L. 85–152, §3, Aug. 16, 1957, 71 Stat. 373, related to construction, operation, and maintenance of recreational facilities at Twin Buttes Reservoir and to allocations for flood control and preservation of fish and wildlife.

Section 615r, Pub. L. 85–152, §4, Aug. 16, 1957, 71 Stat. 374, authorized appropriations for this project.

## SUBCHAPTER XXVII—SPOKANE VALLEY PROJECT, WASHINGTON AND IDAHO

### §§ 615s to 615u. Omitted

CODIFICATION

Section 615s, Pub. L. 86–276, §1, Sept. 16, 1959, 73 Stat. 561; Pub. L. 87–630, §1(a), Sept. 5, 1962, 76 Stat. 431, authorized construction, operation, and maintenance of Spokane Valley Project, Washington and Idaho.

Section 615t, Pub. L. 86–276, §2, Sept. 16, 1959, 73 Stat. 562; Pub. L. 87–630, §1(b), Sept. 5, 1962, 76 Stat. 431, related to provisions concerning construction, operation, and maintenance of this project.

Section 615u, Pub. L. 86–276, §3, Sept. 16, 1959, 73 Stat. 562; Pub. L. 87–630, §1(c), Sept. 5, 1962, 76 Stat. 431, authorized appropriations for this project.

## SUBCHAPTER XXVIII—DALLAS PROJECT, OREGON

### §§ 615v to 615x. Omitted

CODIFICATION

Section 615v, Pub. L. 86–745, §1, Sept. 13, 1960, 74 Stat. 882, authorized construction, operation, and maintenance of Dallas Project, Oregon.

Section 615w, Pub. L. 86–745, §2, Sept. 13, 1960, 74 Stat. 882, related to provisions concerning construction, operation, and maintenance of this project and to rates for power and energy.

Section 615x, Pub. L. 86–745, §3, Sept. 13, 1960, 74 Stat. 883, authorized appropriations for this project.

## SUBCHAPTER XXIX—NORMAN PROJECT, OKLAHOMA

### §§ 615aa to 615hh. Omitted

CODIFICATION

Section 615aa, Pub. L. 86–529, §1, June 27, 1960, 74 Stat. 225, authorized construction, operation, and maintenance of Norman Project, Oklahoma and provided for contracts and advances.

Section 615bb, Pub. L. 86–529, §2, June 27, 1960, 74 Stat. 225, related to allocation of costs for this project.

Section 615cc, Pub. L. 86–529, §3, June 27, 1960, 74 Stat. 226, related to contracts with water users' organization.

Section 615dd, Pub. L. 86–529, §4, June 27, 1960, 74 Stat. 226, related to transfer of care, operation, and maintenance of this project to water users' organization.

Section 615ee, Pub. L. 86–529, §5, June 27, 1960, 74 Stat. 226, related to construction of the project in units or stages.

Section 615ff, Pub. L. 86–529, §6, June 27, 1960, 74 Stat. 226, related to construction of public parks and rec-

reational facilities on lands adjacent to reservoirs of this project.

Section 615gg, Pub. L. 86–529, § 7, June 27, 1960, 74 Stat. 226, related to expenditures for Norman Reservoir.

Section 615hh, Pub. L. 86–529, § 8, June 27, 1960, 74 Stat. 226, authorized appropriations for this project.

## SUBCHAPTER XXX—NAVAJO IRRIGATION PROJECT, NEW MEXICO; SAN JUAN-CHAMA PROJECT, COLORADO-NEW MEXICO

### §§ 615ii to 615zz. Omitted

CODIFICATION

Section 615ii, Pub. L. 87–483, § 1, June 13, 1962, 76 Stat. 96, related to Congressional declaration of policy.

Section 615jj, Pub. L. 87–483, § 2, as added Pub. L. 111–11, title X, § 10402(a), Mar. 30, 2009, 123 Stat. 1372, authorized construction, operation, and maintenance of Navajo Indian Irrigation Project. Section to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note under section 620 of this title.

A prior section 615jj, Pub. L. 87–483, § 2, June 13, 1962, 76 Stat. 96, authorized construction, operation, and maintenance of Navajo Indian irrigation project, prior to repeal by Pub. L. 111–11, title X, § 10402(a), Mar. 30, 2009, 123 Stat. 1372. Repeal by Pub. L. 111–11 to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note under section 620 of this title.

Section 615kk, Pub. L. 87–483, § 3, June 13, 1962, 76 Stat. 96; Pub. L. 91–416, § 1(a), (c), Sept. 25, 1970, 84 Stat. 867, related to lands to be used as part of Navajo Indian irrigation project.

Section 615*ll*, Pub. L. 87–483, § 4, June 13, 1962, 76 Stat. 97, related to contractual assurance of repayment of costs and interest for construction of additional capacity in developing Navajo Indian irrigation project.

Section 615mm, Pub. L. 87–483, § 5, June 13, 1962, 76 Stat. 97, related to payment of operation and maintenance charges of Navajo Indian irrigation project and to transfers of project works and title to property.

Section 615nn, Pub. L. 87–483, § 6, June 13, 1962, 76 Stat. 97, related to restriction on delivery of water from Navajo Indian irrigation project for production of excessive basic commodities.

Section 615*oo*, Pub. L. 87–483, § 7, June 13, 1962, 76 Stat. 97; Pub. L. 91–416, § 1(b), Sept. 25, 1970, 84 Stat. 867, authorized appropriations for Navajo Indian irrigation project.

Section 615pp, Pub. L. 87–483, § 8, June 13, 1962, 76 Stat. 97, authorized construction, operation, and maintenance of initial stage of San Juan-Chama Project, Colorado-New Mexico.

Section 615qq, Pub. L. 87–483, § 9, June 13, 1962, 76 Stat. 99, related to restriction on delivery of water from San Juan-Chama project for production of excessive basic commodities.

Section 615rr, Pub. L. 87–483, § 10, June 13, 1962, 76 Stat. 99, authorized appropriations for San Juan-Chama project.

Section 615ss, Pub. L. 87–483, § 11, June 13, 1962, 76 Stat. 99; Pub. L. 111–11, title X, § 10402(b), Mar. 30, 2009, 123 Stat. 1373, provided that waters of Navajo Reservoir, San Juan River and tributary waters be used only pursuant to contract. Amendment by Pub. L. 111–11 to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note under section 620 of this title.

Section 615tt, Pub. L. 87–483, § 12, June 13, 1962, 76 Stat. 100, related to water use rights of New Mexico and Arizona.

Section 615uu, Pub. L. 87–483, § 13, June 13, 1962, 76 Stat. 101, provided use of water through works constructed pursuant to sections 615ii to 615yy of this title be subject to Colorado River compact, Upper Colorado River Basin compact, Boulder Canyon Project Act (43 U.S.C. 617 et seq.), Boulder Canyon Project Adjustment Act (43 U.S.C. 618 et seq.), Colorado River Storage Project Act (43 U.S.C. 620 et seq.), and Mexican Water Treaty (Treaty Series 994).

Section 615vv, Pub. L. 87–483, § 14, June 13, 1962, 76 Stat. 101, required compliance with above-mentioned compacts, laws, and treaties and provided for enforcement and consent to suit.

Section 615ww, Pub. L. 87–483, § 15, June 13, 1962, 76 Stat. 102, related to studies of quality of water of Colorado River system and reports to Congress on results of these studies.

Section 615xx, Pub. L. 87–483, § 16, June 13, 1962, 76 Stat. 102, related to compact obligations of ''States of the upper division'' concerning flow depletion at Lee Ferry and the Mexican treaty obligation.

Section 615yy, Pub. L. 87–483, § 17, June 13, 1962, 76 Stat. 102, related to determination of appropriations.

Section 615zz, Pub. L. 91–416, § 2, Sept. 25, 1970, 84 Stat. 867, related to water quality standards of the Navajo Indian irrigation project.

## SUBCHAPTER XXXI—CLOSED BASIN DIVISION; SAN LUIS VALLEY PROJECT, COLORADO

### §§ 615aaa to 615iii. Omitted

CODIFICATION

Section 615aaa, Pub. L. 92–514, title I, § 101, Oct. 20, 1972, 86 Stat. 964; Pub. L. 96–375, § 6(a), Oct. 3, 1975, 94 Stat. 1507; Pub. L. 98–570, § 1(1), (2), Oct. 30, 1984, 98 Stat. 2941; Pub. L. 100–516, § 22(1), (2), Oct. 24, 1988, 102 Stat. 2575, authorized construction, operation, and maintenance of the Closed Basin division, San Luis Valley project, Colorado, established Russell Lakes Waterfowl Management Area, and provided a water supply for Blanca Wildlife Habitat Area and Alamosa National Wildlife Refuge.

Section 615bbb, Pub. L. 92–514, title I, § 102, Oct. 20, 1972, 86 Stat. 964; Pub. L. 96–375, § 6(b), Oct. 3, 1975, 94 Stat. 1507; Pub. L. 100–516, § 22(3), (4), Oct. 24, 1988, 102 Stat. 2575, related to a control system to identify fluctuations in the water table.

Section 615ccc, Pub. L. 92–514, title I, § 103, Oct. 20, 1972, 86 Stat. 965, established an operating committee.

Section 615ddd, Pub. L. 92–514, title I, § 104, Oct. 20, 1972, 86 Stat. 965; Pub. L. 98–570, § 1(3), Oct. 30, 1984, 98 Stat. 2941; Pub. L. 100–516, § 22(5), (6), Oct. 24, 1988, 102 Stat. 2575, 2576, related to costs and priority of water availability.

Section 615eee, Pub. L. 92–514, title I, § 105, Oct. 20, 1972, 86 Stat. 965; Pub. L. 98–570, § 1(4), (5), Oct. 30, 1984, 98 Stat. 2942, related to easements and rights-of-way.

Section 615fff, Pub. L. 92–514, title I, § 106, Oct. 20, 1972, 86 Stat. 966, related to conservation and development of fish and wildlife resources and the enhancement of recreational opportunities in connection with this project.

Section 615ggg, Pub. L. 92–514, title I, § 107, Oct. 20, 1972, 86 Stat. 966, provided for transfer of responsibility for care, operation and maintenance of project works to State of Colorado, or political subdivision thereof, or to a water users' organization.

Section 615hhh, Pub. L. 92–514, title I, § 108, Oct. 20, 1972, 86 Stat. 966, provided that nothing in Pub. L. 92–514, enacted sections 615aaa to 615jjjj of this title, be deemed to amend, modify, or conflict with any existing provisions.

Section 615iii, Pub. L. 92–514, title I, § 109, Oct. 20, 1972, 86 Stat. 966; Pub. L. 96–375, § 6(c), Oct. 3, 1975, 94 Stat. 1507; Pub. L. 100–516, § 22(7), Oct. 24, 1988, 102 Stat. 2576, authorized appropriations for this project.

## SUBCHAPTER XXXII—BRANTLEY PROJECT, PECOS RIVER BASIN, NEW MEXICO

### §§ 615jjj to 615*ooo*. Omitted

CODIFICATION

Section 615jjj, Pub. L. 92–514, title II, §201, Oct. 20, 1972, 86 Stat. 966, authorized construction, operation, and maintenance of Brantley project, Pecos River Basin, New Mexico.

Section 615kkk, Pub. L. 92–514, title II, §202, Oct. 20, 1972, 86 Stat. 966, related to conservation and development of fish and wildlife resources and the enhancement of recreational opportunities in connection with this project.

Section 615*lll*, Pub. L. 92–514, title II, §203, Oct. 20, 1972, 86 Stat. 967, provided that nothing in Pub. L. 92–514, enacting sections 615aaa to 615jjjj of this title, amend, repeal, or modify the Pecos River Compact, 1948.

Section 615mmm, Pub. L. 92–514, title II, §204, Oct. 20, 1972, 86 Stat. 967, related to repayment of costs for flood control, dam safety, recreation, and fish and wildlife enhancement.

Section 615nnn, Pub. L. 92–514, title II, §205, Oct. 20, 1972, 86 Stat. 967, related to interest rates.

Section 615*ooo*, Pub. L. 92–514, title II, §206, Oct. 20, 1972, 86 Stat. 967; Pub. L. 96–375, §11, Oct. 3, 1975, 94 Stat. 1507, authorized appropriations for this project.

## SUBCHAPTER XXXIII—SALMON FALLS DIVISION, UPPER SNAKE RIVER PROJECT, IDAHO

### §§ 615ppp to 615www. Omitted

CODIFICATION

Section 615ppp, Pub. L. 92–514, title III, §301, Oct. 20, 1972, 86 Stat. 967, authorized construction, operation, and maintenance of Salmon Falls division, Upper Snake River project, Idaho.

Section 615qqq, Pub. L. 92–514, title III, §302, Oct. 20, 1972, 86 Stat. 967, related to water exchanges.

Section 615rrr, Pub. L. 92–514, title III, §303, Oct. 20, 1972, 86 Stat. 968, related to irrigation repayment contracts.

Section 615sss, Pub. L. 92–514, title III, §304, Oct. 20, 1972, 86 Stat. 968, related to fish and wildlife benefits.

Section 615ttt, Pub. L. 92–514, title III, §305, Oct. 20, 1972, 86 Stat. 968, related to availability of irrigation water pumping power.

Section 615uuu, Pub. L. 92–514, title III, §306, Oct. 20, 1972, 86 Stat. 968, related to interest rates.

Section 615vvv, Pub. L. 92–514, title III, §307, Oct. 20, 1972, 86 Stat. 968, related to newly irrigated lands.

Section 615www, Pub. L. 92–514, title III, §308, Oct. 20, 1972, 86 Stat. 968, authorized appropriations for this project.

## SUBCHAPTER XXXIV—O'NEILL UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

### §§ 615xxx to 615cccc. Omitted

CODIFICATION

Section 615xxx, Pub. L. 92–514, title IV, §401, Oct. 20, 1972, 86 Stat. 968, authorized construction, operation, and maintenance of O'Neill unit, Pick-Sloan Missouri Basin program, Nebraska.

Section 615yyy, Pub. L. 92–514, title IV, §402, Oct. 20, 1972, 86 Stat. 969, related to conservation and development of fish and wildlife and enhancement of recreational opportunities in connection with this unit.

Section 615zzz, Pub. L. 92–514, title IV, §403, Oct. 20, 1972, 86 Stat. 969, related to integration of this unit with other Federal works.

Section 615aaaa, Pub. L. 92–514, title IV, §404, Oct. 20, 1972, 86 Stat. 969, related to interest rates.

Section 615bbbb, Pub. L. 92–514, title IV, §405, Oct. 20, 1972, 86 Stat. 969, related to newly irrigated lands.

Section 615cccc, Pub. L. 92–514, title IV, §406, Oct. 20, 1972, 86 Stat. 969, authorized appropriations for this unit.

## SUBCHAPTER XXXV—NORTH LOUP DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM, NEBRASKA

### §§ 615dddd to 615jjjj. Omitted

CODIFICATION

Section 615dddd, Pub. L. 92–514, title V, §501, Oct. 20, 1972, 86 Stat. 969; Pub. L. 108–318, §1, Oct. 5, 2004, 118 Stat. 1211, authorized North Loup division, Pick-Sloan Missouri Basin program, Nebraska, and described principal features of this division.

Section 615eeee, Pub. L. 92–514, title V, §502, Oct. 20, 1972, 86 Stat. 969, related to interest rates.

Section 615ffff, Pub. L. 92–514, title V, §503, Oct. 20, 1972, 86 Stat. 970, related to conservation and development of fish and wildlife and enhancement of recreational opportunities in connection with this division.

Section 615gggg, Pub. L. 92–514, title V, §504, Oct. 20, 1972, 86 Stat. 970, related to integration of this division with other Federal works.

Section 615hhhh, Pub. L. 92–514, title V, §505, Oct. 20, 1972, 86 Stat. 970, related to limitations on diversion of waters.

Section 615iiii, Pub. L. 92–514, title V, §506, Oct. 20, 1972, 86 Stat. 970, related to newly irrigated lands.

Section 615jjjj, Pub. L. 92–514, title V, §507, Oct. 20, 1972, 86 Stat. 970, authorized appropriations for this division.

VIRGINIA SMITH DAM AND CALAMUS LAKE RECREATION AREA

Pub. L. 101–359, Aug. 10, 1990, 104 Stat. 420, redesignated the Calamus Dam and Reservoir in the North Loup division of the Missouri River basin project as the Virginia Smith Dam and Calamus Lake Recreation Area, effective Jan. 3, 1991.

## SUBCHAPTER XXXVI—POLECAT BENCH AREA, SHOSHONE EXTENSIONS UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM, WYOMING

### §§ 615kkkk to 615kkkk–6. Omitted

CODIFICATION

Section 615kkkk, Pub. L. 94–228, title I, §101, Mar. 11, 1976, 90 Stat. 205, authorized construction, operation, and maintenance of Polecat Bench area, Shoshone extensions unit, Pick-Sloan Missouri Basin program, Wyoming, and described principal features of this area.

Section 615kkkk–1, Pub. L. 94–228, title I, §102, Mar. 11, 1976, 90 Stat. 205, related to conservation and development of fish and wildlife and enhancement of recreation opportunities in connection with this area.

Section 615kkkk–2, Pub. L. 94–228, title I, §103, Mar. 11, 1976, 90 Stat. 205, related to integration of this area with other Federal works.

Section 615kkkk–3, Pub. L. 94–228, title I, §104, Mar. 11, 1976, 90 Stat. 206, related to lands held in single ownership.

Section 615kkkk–4, Pub. L. 94–228, title I, §105, Mar. 11, 1976, 90 Stat. 206, related to newly irrigated lands.

Section 615kkkk–5, Pub. L. 94–228, title I, §106, Mar. 11, 1976, 90 Stat. 206, related to interest rates.

Section 615kkkk–6, Pub. L. 94–228, title I, §107, Mar. 11, 1976, 90 Stat. 206, authorized appropriations for this area.

## SUBCHAPTER XXXVII—POLLOCK-HERREID UNIT, PICK-SLOAN MISSOURI BASIN PROGRAM, SOUTH DAKOTA

### §§ 615*llll* to 615*llll*–5. Omitted

CODIFICATION

Section 615*llll*, Pub. L. 94–228, title IV, § 401, Mar. 11, 1976, 90 Stat. 208, authorized construction, operation, and maintenance of Pollock-Herreid Unit, Pick-Sloan Missouri Basin program, South Dakota, and described the principal features of this unit.

Section 615*llll*–1, Pub. L. 94–228, title IV, § 402, Mar. 11, 1976, 90 Stat. 208, related to conservation and development of fish and wildlife.

Section 615*llll*–2, Pub. L. 94–228, title IV, § 403, Mar. 11, 1976, 90 Stat. 208, related to integration of this unit with other Federal works.

Section 615*llll*–3, Pub. L. 94–228, title IV, § 404, Mar. 11, 1976, 90 Stat. 208, related to newly irrigated lands.

Section 615*llll*–4, Pub. L. 94–228, title IV, § 405, Mar. 11, 1976, 90 Stat. 208, related to interest rates.

Section 615*llll*–5, Pub. L. 94–228, title IV, § 406, Mar. 11, 1976, 90 Stat. 208, related to lands held in single ownership.

### § 615*llll*–6. Repealed. Pub. L. 100–516, § 12(a), Oct. 24, 1988, 102 Stat. 2572

Section, Pub. L. 94–228, title IV, § 407, Mar. 11, 1976, 90 Stat. 209, authorized appropriations for Pollock-Herreid Unit. Section 12(a) of Pub. L. 100–516 provided in part that: ''The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.''

## SUBCHAPTER XXXVIII—FRYINGPAN-ARKANSAS PROJECT, COLORADO

### §§ 616 to 616f. Omitted

CODIFICATION

Section 616, Pub. L. 87–590, § 1, Aug. 16, 1962, 76 Stat. 389; Pub. L. 111–11, title IX, § 9115(a), Mar. 30, 2009, 123 Stat. 1320, authorized construction, operation, and maintenance of Fryingpan-Arkansas project, Colorado.

Section 616a, Pub. L. 87–590, § 2, Aug. 16, 1962, 76 Stat. 390; Pub. L. 111–11, title IX, § 9115(b), Mar. 30, 2009, 123 Stat. 1321, related to repayment of projects costs and determination of interest rates.

Section 616b, Pub. L. 87–590, § 3, Aug. 16, 1962, 76 Stat. 391, related to operation of this project and protection of rights of western Colorado water users.

Section 616c, Pub. L. 87–590, § 4, Aug. 16, 1962, 76 Stat. 391; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792, related to construction, operation, and maintenance of public recreation facilities on lands within this project and conservation and development of fish and wildlife.

Section 616d, Pub. L. 87–590, § 5, Aug. 16, 1962, 76 Stat. 392, provided use of water through works constructed pursuant to sections 616 to 616f of this title be subject to Colorado River compact, Upper Colorado River Basin compact, Boulder Canyon Project Act (43 U.S.C. 617 et seq.), Boulder Canton Project Adjustment Act (43 U.S.C. 618 et seq.), Colorado River Storage Project Act (43 U.S.C. 620 et seq.), and Mexican Water Treaty (Treaty Series 994) and for enforcement of compliance with these compacts, statutes and treaty.

Section 616e, Pub. L. 87–590, § 6, Aug. 16, 1962, 76 Stat. 393, related to studies of quality of waters of Colorado River system and reports to Congress on results of these studies.

Section 616f, Pub. L. 87–590, § 7, Aug. 16, 1962, 76 Stat. 393; Pub. L. 93–493, title XI, § 1101, Oct. 27, 1974, 88 Stat. 1497; Pub. L. 111–11, title IX, § 9115(c), Mar. 30, 2009, 123 Stat. 1321, authorized appropriations for this project.

## SUBCHAPTER XXXIX—MANN CREEK PROJECT, IDAHO

### §§ 616g to 616j. Omitted

CODIFICATION

Section 616g, Pub. L. 87–589, § 1, Aug. 16, 1962, 76 Stat. 388, authorized construction, operation, and maintenance of Mann Creek project, Idaho.

Section 616h, Pub. L. 87–589, § 2, Aug. 16, 1962, 76 Stat. 388, related to repayment of construction costs and to costs allocated to irrigation.

Section 616i, Pub. L. 87–589, § 3, Aug. 16, 1962, 76 Stat. 389, related to construction, operation, and maintenance of public recreational facilities and conservation and development of fish and wildlife in connection with this project.

Section 616j, Pub. L. 87–589, § 4, Aug. 16, 1962, 76 Stat. 389; Pub. L. 89–60, June 30, 1965, 79 Stat. 207, authorized appropriations for this project.

## SUBCHAPTER XL—ARBUCKLE PROJECT, OKLAHOMA

### §§ 616k to 616s. Omitted

CODIFICATION

Section 616k, Pub. L. 87–594, § 1, Aug. 24, 1962, 76 Stat. 395, authorized construction, operation, and maintenance of Arbuckle project, Oklahoma.

Section 616*l*, Pub. L. 87–594, § 2, Aug. 24, 1962, 76 Stat. 395, related to allocation of costs of construction, operation, and maintenance of this project.

Section 616m, Pub. L. 87–594, § 3, Aug. 24, 1962, 76 Stat. 396, related to contracts with water users' organization.

Section 616n, Pub. L. 87–594, § 4, Aug. 24, 1962, 76 Stat. 396, related to transfer of care, operation, and maintenance of this project to water users' organization.

Section 616*o*, Pub. L. 87–594, § 5, Aug. 24, 1962, 76 Stat. 397, related to construction of this project in stages or units.

Section 616p, Pub. L. 87–594, § 6, Aug. 24, 1962, 76 Stat. 397, related to construction, operation, and maintenance of recreational facilities in connection with this project.

Section 616q, Pub. L. 87–594, § 7, Aug. 24, 1962, 76 Stat. 397, related to conservation and development of fish and wildlife in connection with this project.

Section 616r, Pub. L. 87–594, § 8, Aug. 24, 1962, 76 Stat. 397, related to expenditures for the reservoir and aqueduct system.

Section 616s, Pub. L. 87–594, § 9, Aug. 24, 1962, 76 Stat. 397, authorized appropriations for this project.

## SUBCHAPTER XLI—BAKER PROJECT, OREGON

### §§ 616t to 616w. Omitted

CODIFICATION

Section 616t, Pub. L. 87–706, § 1, Sept. 27, 1962, 76 Stat. 634, authorized construction, operation, and maintenance of Baker project, Oregon.

Section 616u, Pub. L. 87–706, § 2, Sept. 27, 1962, 76 Stat. 634, related to extension of period of repayment of construction costs, excess lands and conditions for furnishing water to these lands, and computation of acreage.

Section 616v, Pub. L. 87–706, § 3, Sept. 27, 1962, 76 Stat. 634, related to construction, operation, and maintenance of public recreational facilities and development of fish and wildlife in connection with this project and operation of this project for flood control.

Section 616w, Pub. L. 87–706, § 4, Sept. 27, 1962, 76 Stat. 635, authorized appropriations for this project.

## SUBCHAPTER XLII—DIXIE PROJECT, UTAH

### §§ 616aa to 616hh. Omitted

CODIFICATION

Section 616aa, Pub. L. 88–565, § 1, Sept. 2, 1964, 78 Stat. 848, authorized construction, operation, and mainte-

nance of Dixie project, Utah, and described the principal features of this project.

Section 616aa–1, Pub. L. 90–537, title III, § 307, Sept. 30, 1968, 82 Stat. 893, reauthorized this project for construction and provided for integration and participation of this project in Lower Colorado River Basin Development Fund.

Section 616bb, Pub. L. 88–565, § 2, Sept. 2, 1964, 78 Stat. 848, related to protection of downstream water users against impairment of water quality from operations of this project and to indemnification.

Section 616cc, Pub. L. 88–565, § 3, Sept. 2, 1964, 78 Stat. 848, related to laws governing this project.

Section 616dd, Pub. L. 88–565, § 4, Sept. 2, 1964, 78 Stat. 848, related to establishment of a conservancy district or similar organization prior to construction of this project.

Section 616ee, Pub. L. 88–565, § 5, Sept. 2, 1964, 78 Stat. 848, related to interest rate, repayment of construction costs and period for repayment.

Section 616ff, Pub. L. 88–565, § 6, Sept. 2, 1964, 78 Stat. 849, related to construction, operation, and maintenance of recreational facilities in connection with this project.

Section 616gg, Pub. L. 88–565, § 7, Sept. 2, 1964, 78 Stat. 849, provided that use of water diverted for this project from Colorado river system be subject to Colorado River compact, Boulder Canyon Project Act (43 U.S.C. 617 et seq.), and Mexican Water Treaty (Treaty Series 994).

Section 616hh, Pub. L. 88–565, § 8, Sept. 2, 1964, 78 Stat. 849; Pub. L. 90–537, title III, § 307, Sept. 30, 1968, 82 Stat. 893, authorized appropriations for this project.

## SUBCHAPTER XLIII—SAVERY-POT HOOK PROJECT, COLORADO-WYOMING; BOSTWICK PARK AND FRUITLAND MESA PROJECTS, COLORADO

### §§ 616ii to 616mm. Omitted

CODIFICATION

Section 616ii, Pub. L. 88–568, § 2, Sept. 2, 1964, 78 Stat. 852, authorized construction and operation of Savery-Pot Hook project, Colorado-Wyoming, and Bostwick Park and Fruitland Mesa projects, Colorado.

Section 616jj, Pub. L. 88–568, § 3, Sept. 2, 1964, 78 Stat. 852, provided that provisions of act Aug. 28, 1958 (72 Stat. 963), relating to Seedskadee project in Wyoming are applicable to these projects and set an acreage limitation for lands held in single ownership for reception of project water.

Section 616kk, Pub. L. 88–568, § 4, Sept. 2, 1964, 78 Stat. 852, related to recreational and fish and wildlife facilities and transfer of lands to be administered by Secretary of Agriculture as a national forest.

Section 616*ll*, Pub. L. 88–568, § 5, Sept. 2, 1964, 78 Stat. 853, related to restriction on delivery of water for production of excessive basic commodities.

Section 616mm, Pub. L. 88–568, § 1, Sept. 2, 1964, 78 Stat. 852, authorized appropriations for these projects.

## SUBCHAPTER XLIV—LOWER TETON DIVISION OF TETON BASIN PROJECT, IDAHO

### §§ 616nn to 616rr. Omitted

CODIFICATION

Section 616nn, Pub. L. 88–583, § 1, Sept. 7, 1964, 78 Stat. 925, authorized construction, operation, and maintenance of Lower Teton Division of Teton Basin project.

Section 616*oo*, Pub. L. 88–583, § 2, Sept. 7, 1964, 78 Stat. 925, related to extension of period of repayment of construction costs.

Section 616pp, Pub. L. 88–583, § 3, Sept. 7, 1964, 78 Stat. 925, authorized construction, operation, and maintenance of public recreation facilities in connection with this project.

Section 616qq, Pub. L. 88–583, § 4, Sept. 7, 1964, 78 Stat. 926; Pub. L. 96–470, § 108(d), Oct. 19, 1980, 94 Stat. 2239, related to water users contracts and conditions to be met prior to construction of facilities.

Section 616rr, Pub. L. 88–583, § 5, Sept. 7, 1964, 78 Stat. 926, authorized appropriations for this division.

## SUBCHAPTER XLV—WHITESTONE COULEE UNIT, CHIEF JOSEPH DAM PROJECT, WASHINGTON

### §§ 616ss to 616vv–5. Omitted

CODIFICATION

Section 616ss, Pub. L. 88–599, § 1, Sept. 18, 1964, 78 Stat. 955, authorized construction, operation, and maintenance of Whitestone Coulee unit of Okanogan-Similkameen division of Chief Joseph Dam project, Washington.

Section 616tt, Pub. L. 88–599, § 2, Sept. 18, 1964, 78 Stat. 955, provided that section 2 of the act July 27, 1954 (68 Stat. 568, 569) apply to this unit.

Section 616uu, Pub. L. 88–599, § 3, Sept. 18, 1964, 78 Stat. 955, authorized construction, operation, and maintenance of recreational facilities in connection with this unit and allocated costs for conservation of fish and wildlife.

Section 616vv, Pub. L. 88–599, § 4, Sept. 18, 1964, 78 Stat. 956, authorized appropriations for this unit.

Section 616vv–1, Pub. L. 89–557, § 1, Sept. 7, 1966, 80 Stat. 704, authorized construction, operation, and maintenance of Manson unit, Chelan division, Chief Joseph Dam project, Washington.

Section 616vv–2, Pub. L. 89–557, § 2, Sept. 7, 1966, 80 Stat. 704, related to irrigation repayment contracts and period for repayment and charges for power and energy for irrigation water pumping.

Section 616vv–3, Pub. L. 89–557, § 3, Sept. 7, 1966, 80 Stat. 704, related to conservation and development of fish and wildlife and enhancement of recreational facilities in connection with this unit.

Section 616vv–4, Pub. L. 89–557, § 4, Sept. 7, 1966, 80 Stat. 704, related to restriction on delivery of water for production of excessive basic commodities.

Section 616vv–5, Pub. L. 89–557, § 5, Sept. 7, 1966, 80 Stat. 705, authorized appropriations for this unit.

## SUBCHAPTER XLVI—McKAY DAM AND RESERVOIR, UMATILLA PROJECT, OREGON

### §§ 616ww to 616ww–5. Omitted

CODIFICATION

Section 616ww, Pub. L. 94–228, title III, § 301, Mar. 11, 1976, 90 Stat. 207, authorized construction of McKay Dam and Reservoir, Umatilla project, Oregon, and provided for allocation of costs.

Section 616ww–1, Pub. L. 94–228, title III, § 302, Mar. 11, 1976, 90 Stat. 207, authorized modifications to spillway structure of McKay Dam.

Section 616ww–2, Pub. L. 94–228, title III, § 303, Mar. 11, 1976, 90 Stat. 207, related to maximum storage capacity allocated for primary purpose of retaining and regulating flood control.

Section 616ww–3, Pub. L. 94–228, title III, § 304, Mar. 11, 1976, 90 Stat. 207, related to allocation of costs for modification of McKay Dam and to allocation of all other costs.

Section 616ww–4, Pub. L. 94–228, title III, § 305, Mar. 11, 1976, 90 Stat. 207, related to repayment contracts and reimbursable costs.

Section 616ww–5, Pub. L. 94–228, title III, § 306, Mar. 11, 1976, 90 Stat. 207, authorized appropriations for this project.

## SUBCHAPTER XLVII—AUBURN-FOLSOM SOUTH UNIT; SAN FELIPE DIVISION: CENTRAL VALLEY PROJECT, CALIFORNIA

### §§ 616aaa to 616fff–7. Omitted

CODIFICATION

Section 616aaa, Pub. L. 89–161, § 1, Sept. 2, 1965, 79 Stat. 615, authorized construction, operation, and

maintenance of the Auburn-Folsom South unit, American River division, Central Valley project, California, and described principal features of this unit.

Section 616bbb, Pub. L. 89–161, § 2, Sept. 2, 1965, 79 Stat. 616, provided for financial and operational integration and coordination of this unit with Central Valley project.

Section 616ccc, Pub. L. 89–161, § 3, Sept. 2, 1965, 79 Stat. 616, related to construction, operation, and maintenance of public recreational facilities and enhancement of fish and wildlife in connection with this unit.

Section 616ddd, Pub. L. 89–161, § 4, Sept. 2, 1965, 79 Stat. 618, provided that in locating and designating works and facilities of this unit consideration be given to State of California water plan reports and that local interests be consulted.

Section 616eee, Pub. L. 89–161, § 5, Sept. 2, 1965, 79 Stat. 618, related to allocation of water.

Section 616fff, Pub. L. 89–161, § 6, Sept. 2, 1965, 79 Stat. 618, authorized appropriations for this unit.

Section 616fff–1, Pub. L. 90–72, § 1, Aug. 27, 1967, 81 Stat. 173, authorized construction, operation, and maintenance of San Felipe division, Central Valley project, California.

Section 616fff–2, Pub. L. 90–72, § 2, Aug. 27, 1967, 81 Stat. 174, related to conservation and development of fish and wildlife and enhancement of recreational facilities in connection with this division.

Section 616fff–3, Pub. L. 90–72, § 3, Aug. 27, 1967, 81 Stat. 174, related to contracts for delivery of water through State facilities.

Section 616fff–4, Pub. L. 90–72, § 4, Aug. 27, 1967, 81 Stat. 174, provided that in locating and designing works and facilities of this division consideration be given to State of California water plan reports and that local interests be consulted.

Section 616fff–5, Pub. L. 90–72, § 5, Aug. 27, 1967, 81 Stat. 174, related to nonapplicability of other laws to this division.

Section 616fff–6, Pub. L. 90–72, § 6, Aug. 27, 1967, 81 Stat. 174, related to restriction on delivery of water for production of excessive basic commodities.

Section 616fff–7, Pub. L. 90–72, § 7, Aug. 27, 1967, 81 Stat. 174, authorized appropriations for this division.

## SUBCHAPTER XLVIII—SOUTHERN NEVADA PROJECT, NEVADA

### §§ 616ggg to 616mmm. Omitted

CODIFICATION

Section 616ggg, Pub. L. 89–292, § 1, Oct. 22, 1965, 79 Stat. 1068, authorized construction, operation, and maintenance of the Southern Nevada project, Nevada.

Section 616hhh, Pub. L. 89–292, § 2, Oct. 22, 1965, 79 Stat. 1068, related to allocation of project costs and to repayment of these allocated project costs.

Section 616iii, Pub. L. 89–292, § 3, Oct. 22, 1965, 79 Stat. 1068, related to commencement of construction of this project, transfer of the care, operation and maintenance of this project to a State agency and to the permanent use of project facilities by Nevada.

Section 616jjj, Pub. L. 89–292, § 4, Oct. 22, 1965, 79 Stat. 1069, related to construction costs allocated to defense installations.

Section 616kkk, Pub. L. 89–292, § 5, Oct. 22, 1965, 79 Stat. 1069, related to control of diverted waters.

Section 616*lll*, Pub. L. 89–292, § 6, Oct. 22, 1965, 79 Stat. 1069; Pub. L. 89–510, July 19, 1966, 80 Stat. 312, related to contract provisions for subordination of rights of contracting parties to those of Basic Management, Inc. or its assignees.

Section 616mmm, Pub. L. 89–292, § 7, Oct. 22, 1965, 79 Stat. 1069, authorized appropriations for this project.

## SUBCHAPTER XLIX—TUALATIN PROJECT, OREGON

### §§ 616nnn to 616sss. Omitted

CODIFICATION

Section 616nnn, Pub. L. 89–596, § 1, Sept. 20, 1966, 80 Stat. 822, authorized construction, operation, and maintenance of Tualatin project, Oregon.

Section 616*ooo*, Pub. L. 89–596, § 2, Sept. 20, 1966, 80 Stat. 822, related to irrigation repayment contracts, period of repayment, and charges for power and energy.

Section 616ppp, Pub. L. 89–596, § 3, Sept. 20, 1966, 80 Stat. 822, related to conservation and development of fish and wildlife and enhancement of recreational facilities in connection with this project.

Section 616qqq, Pub. L. 89–596, § 4, Sept. 20, 1966, 80 Stat. 822, related to repayment of project costs.

Section 616rrr, Pub. L. 89–596, § 5, Sept. 20, 1966, 80 Stat. 823, related to restriction on delivery of water for production of excessive basic commodities.

Section 616sss, Pub. L. 89–596, § 6, Sept. 20, 1966, 80 Stat. 823, authorized appropriations for this project.

## SUBCHAPTER L—MISSOURI RIVER BASIN PROJECT, SOUTH DAKOTA

### §§ 616ttt to 616yyy. Omitted

CODIFICATION

Section 616ttt, Pub. L. 90–453, § 1, Aug. 3, 1968, 82 Stat. 624, authorized construction, operation, and maintenance of Oahe unit, James division, Missouri River Basin project, South Dakota.

Section 616uuu, Pub. L. 90–453, § 2, Aug. 3, 1968, 82 Stat. 624, related to conservation and development of fish and wildlife and enhancement of recreational facilities in connection with this unit.

Section 616vvv, Pub. L. 90–453, § 3, Aug. 3, 1968, 82 Stat. 625, provided for physical and financial integration of this unit with other Federal works.

Section 616www, Pub. L. 90–453, § 4, Aug. 3, 1968, 82 Stat. 625, related to restriction on delivery of water for production of excessive basic commodities.

Section 616xxx, Pub. L. 90–453, § 5, Aug. 3, 1968, 82 Stat. 625, related to interest rate.

Section 616yyy, Pub. L. 90–453, § 6, Aug. 3, 1968, 82 Stat. 625, authorized appropriations for this unit.

## SUBCHAPTER LI—MOUNTAIN PARK PROJECT, OKLAHOMA

CHANGE OF NAME

Pub. L. 94–77, Aug. 9, 1975, 89 Stat. 410, provided: ''That the Mountain Park Reservoir, Oklahoma, authorized to be constructed by the Act of September 21, 1968 (82 Stat. 853) [sections 616aaaa to 616ffff of this title], shall be known and designated hereafter as the Tom Steed Reservoir. Any law, regulation, map, document, record, or other paper of the United States in which such reservoir is referred shall be held to refer to such reservoir as the Tom Steed Reservoir.''

### §§ 616aaaa to 616ffff–2. Omitted

CODIFICATION

Section 616aaaa, Pub. L. 90–503, § 1, Sept. 21, 1968, 82 Stat. 853; Pub. L. 93–493, title III, § 301, Oct. 27, 1974, 88 Stat. 1492; Pub. L. 103–434, title IV, § 402(a), Oct. 31, 1994, 108 Stat. 4536, authorized construction, operation, and maintenance of the Mountain Park project, Oklahoma.

Section 616bbbb, Pub. L. 90–503, § 2, Sept. 21, 1968, 82 Stat. 853, related to repayment of costs and the interest rate.

Section 616cccc, Pub. L. 90–503, § 3, Sept. 21, 1968, 82 Stat. 854, related to transfer of the care, maintenance, and operation of project works to water users' organization.

Section 616dddd, Pub. L. 90–503, §4, Sept. 21, 1968, 82 Stat. 854, related to soil survey and land classification.

Section 616eeee, Pub. L. 90–503, §5, Sept. 21, 1968, 82 Stat. 854, related to conservation and development of fish and wildlife and enhancement of recreational opportunities in connection with this project.

Section 616ffff, Pub. L. 90–503, §6, Sept. 21, 1968, 82 Stat. 854, authorized appropriations for this project.

Section 616ffff–1, Pub. L. 93–493, title III, §302, Oct. 27, 1974, 88 Stat. 1492, authorized additional appropriations for this project.

Section 616ffff–2, Pub. L. 90–503, §7, as added Pub. L. 103–434, title IV, §402(b), Oct. 31, 1994, 108 Stat. 4536, authorized reallocation of project costs.

## SUBCHAPTER LII—PALMETTO BEND PROJECT, TEXAS

### §§ 616gggg to 616*llll*. Omitted

CODIFICATION

Section 616gggg, Pub. L. 90–562, §1, Oct. 12, 1968, 82 Stat. 999, authorized construction, operation, and maintenance of Palmetto Bend project, Texas.

Section 616hhhh, Pub. L. 90–562, §2, Oct. 12, 1968, 82 Stat. 999, related to repayment of costs of this project.

Section 616iiii, Pub. L. 90–562, §3, Oct. 12, 1968, 82 Stat. 999, related to transfer of the care, operation, and maintenance of this project to a qualified contractor or contracting entities and to permanent usage rights.

Section 616jjjj, Pub. L. 90–562, §4, Oct. 12, 1968, 82 Stat. 1000, related to conservation and development of fish and wildlife and to enhancement of recreational opportunities in connection with this project.

Section 616kkkk, Pub. L. 90–562, §5, Oct. 12, 1968, 82 Stat. 1000, authorized appropriations for construction, operation, and maintenance of the first stage of this project.

Section 616*llll*, Pub. L. 90–562, §6, Oct. 12, 1968, 82 Stat. 1000, authorized appropriations for acquisition of land for the second stage of this project.

## SUBCHAPTER LIII—MERLIN DIVISION; ROGUE RIVER BASIN PROJECT, OREGON

### §§ 616mmmm to 616ssss. Omitted

CODIFICATION

Section 616mmmm, Pub. L. 91–270, §1, May 28, 1970, 84 Stat. 273, authorized construction, operation, and maintenance of Merlin Division, Rogue River Basin project, Oregon.

Section 616nnnn, Pub. L. 91–270, §2, May 28, 1970, 84 Stat. 273, related to irrigation repayment contracts and assessment and collection of service charges.

Section 616*oooo*, Pub. L. 91–270, §3, May 28, 1970, 84 Stat. 273, related to conservation and development of fish and wildlife and to enhancement of recreational opportunities in connection with this division.

Section 616pppp, Pub. L. 91–270, §4, May 28, 1970, 84 Stat. 273, related to transfer of care, operation, and maintenance of this division to water user's organization.

Section 616qqqq, Pub. L. 91–270, §5, May 28, 1970, 84 Stat. 273, authorized power for irrigation water pumping.

Section 616rrrr, Pub. L. 91–270, §6, May 28, 1970, 84 Stat. 273, related to restriction on delivery of water for production of excessive basic commodities.

Section 616ssss, Pub. L. 91–270, §7, May 28, 1970, 84 Stat. 274, authorized appropriations for this division.

## SUBCHAPTER LIV—TOUCHET DIVISION; WALLA WALLA PROJECT, OREGON-WASHINGTON

### §§ 616tttt to 616yyyy. Omitted

CODIFICATION

Section 616tttt, Pub. L. 91–307, §1, July 7, 1970, 84 Stat. 409, authorized construction, operation, and maintenance of Touchet Division, Walla Walla project, Oregon-Washington.

Section 616uuuu, Pub. L. 91–307, §2, July 7, 1970, 84 Stat. 409, related to irrigation payment contracts and repayment of construction costs.

Section 616vvvv, Pub. L. 91–307, §3, July 7, 1970, 84 Stat. 409, related to conservation and development of fish and wildlife and enhancement of recreational opportunities in connection with this division.

Section 616wwww, Pub. L. 91–307, §4, July 7, 1970, 84 Stat. 409, related to interest rate.

Section 616xxxx, Pub. L. 91–307, §5, July 7, 1970, 84 Stat. 410, related to restriction on delivery of water for production of excessive basic commodities.

Section 616yyyy, Pub. L. 91–307, §6, July 7, 1970, 84 Stat. 410; Pub. L. 94–175, Dec. 23, 1975, 89 Stat. 1030, authorized appropriations for this division.

# CHAPTER 12A—BOULDER CANYON PROJECT

## SUBCHAPTER I—BOULDER CANYON PROJECT ACT


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CONSOLIDATION OF CERTAIN PROJECTS; EFFECT ON THIS CHAPTER

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 subsection (b) of this section 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 subsection (b) of this section 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 subsection (b) of this section, 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.

### § 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 617*l* 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

[1] So in original.

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 subsection (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 subsection (b) of section 617c of this title. Contracts respecting water for irrigation and domestic uses shall be for permanent service and shall conform to subsection (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 subsection (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 subsection (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 reg-

ulation, 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

Section 704(a) of Pub. L. 94–579 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.

### § 617*l*. 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.)

**§ 617*o*. 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) of this section), 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 Sec-

retary 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''.

### § 618*l*. 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 there-

under, 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. 617*l*(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.

### § 618*o*. 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

Section 1 of Pub. L. 98–381 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 |

SCHEDULE A—CONTINUED

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 |
| 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 |

SCHEDULE C—CONTINUED

EXCESS ENERGY

| Priority of entitlement to excess energy | State |
|---|---|
| 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) of this section 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[1] Schedules A, B,

[1] So in original. The word ''said'' probably should not appear.

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 subdivison[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

[2] So in original. Probably should be ''subdivision''.

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 618*o* 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.

### § 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.)

## CHAPTER 12B—COLORADO RIVER STORAGE PROJECT

Sec.
620. Upper Colorado River Basin; purpose of development of water resources; initial units; construction of Wayne N. Aspinall unit contingent upon certification; participating projects; Rainbow Bridge National Monument.
620a. Priority to planning reports of certain additional participating projects; reports to States; San Juan-Chama project; Juniper project.
620a–1. Construction of participating projects to be concurrent with Central Arizona Project.
620a–2. Establishment of nonexcess irrigable acreage for participating projects.
620b. Congressional intent; additional undesignated projects not precluded; construction not authorized within national park or monument.
620c. Laws governing; irrigation repayment contracts; time for making contract; contracts for municipal water; payment by Indian lands; restricted delivery of water for excess commodity; apportionments of use.
620c–1. Laws governing priority of appropriation.
620d. Upper Colorado River Basin Fund.
620d–1. Reimbursement of Fund from Colorado River Development Fund; operation of Hoover Dam.
620e. Cost allocations; Indian lands; report to Congress.
620f. Powerplant operations.
620g. Recreational and fish and wildlife facilities.
620h. Saving provisions.
620i. Expenditures; units excepted from soil survey and land classification requirements.
620j. Court decree; effectivity and approval.
620k. Authorization of appropriations.
620*l*. Net power revenues.
620m. Compliance with law required in operation of facilities; enforcement of provisions.
620n. Water quality study and reports.
620n–1. Top water bank.
620*o*. Definitions.

### § 620. Upper Colorado River Basin; purpose of development of water resources; initial units; construction of Wayne N. Aspinall unit contingent upon certification; participating projects; Rainbow Bridge National Monument

In order to initiate the comprehensive development of the water resources of the Upper Colorado River Basin, for the purposes, among others, of regulating the flow of the Colorado River, storing water for beneficial consumptive use, making it possible for the States of the Upper Basin to utilize, consistently with the provisions of the Colorado River Compact, the apportionments made to and among them in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, providing for the reclamation of arid and semiarid land, for the control of floods, and for the generation of hydroelectric power, as an incident of the foregoing purposes, the Secretary of the Interior is authorized (1) to construct, operate, and maintain the following initial units of the Colorado River storage project, consisting of dams, reservoirs, powerplants, transmission facilities and appurtenant works: Wayne N. Aspinall, Flaming Gorge, Navajo (dam and reservoir only), and Glen Canyon: *Provided*, That the Wayne N. Aspinall Dam shall be constructed to a height which will impound not less than nine hundred and forty thousand acre-feet of water or will create a reservoir of such greater capacity as can be obtained by a high waterline located at seven thousand five hundred and twenty feet above mean sea level, and that construction thereof shall not be undertaken until the Secretary has, on the basis of further engineering and economic investigations, reexamined the economic justification of such unit and, accompanied by appropriate documentation in the form of a supplemental report, has certified to the Congress and to the President that, in his judgment, the benefits of such unit will exceed its costs; and (2) to construct, operate, and maintain the following additional reclamation projects (including power-generating and transmission facilities related thereto), hereinafter referred to as participating projects: Central Utah (initial phase and the Uintah unit), San Juan-Chama (initial stage), Emery County, Florida, Hammond, La Barge, Lyman, Navajo Indian, Paonia (including the Minnesota unit, a dam and reservoir on Muddy Creek just above its confluence with the North Fork of the Gunnison River, and other necessary works), Animas-La Plata, Dolores, Dallas Creek, West Divide, San Miguel, Seedskadee, Savery-Pot Hook, Bostwick Park, Fruitland Mesa, the Navajo-Gallup Water Supply Project, Silt and Smith Fork: *Provided further*, That as part of the Glen Canyon Unit the Secretary of the Interior shall take adequate protective measures to preclude impairment of the Rainbow Bridge National Monument.

(Apr. 11, 1956, ch. 203, § 1, 70 Stat. 105; Pub. L. 87–483, § 18, June 13, 1962, 76 Stat. 102; Pub. L. 88–568, § 1, Sept. 2, 1964, 78 Stat. 852; Pub. L. 90–537, title V, § 501(a), Sept. 30, 1968, 82 Stat. 896; Pub. L. 96–375, § 7, Oct. 3, 1980, 94 Stat. 1507; Pub. L. 96–470, title I, § 108(c), Oct. 19, 1980, 94 Stat. 2239; Pub. L. 111–11, title X, § 10401(a), Mar. 30, 2009, 123 Stat. 1371.)

AMENDMENT OF SECTION

*For termination of amendment by section 10701(e)(2) of Pub. L. 111–11, see Termination Date of 2009 Amendment note below.*

CODIFICATION

The provisions of subsec. (a) of section 501 of Pub. L. 90–537 which amended this section are only a part of said subsec. (a). The remainder of said subsec. (a) amended section 620a of this title and enacted provisions set out as notes under this section and section 620k of this title.

AMENDMENTS

2009—Pub. L. 111–11, §§10401(a), 10701(e)(2), temporarily inserted ''the Navajo-Gallup Water Supply Project,'' after ''Fruitland Mesa,'' in cl. (2). See Termination Date of 2009 Amendment note below.

1980—Pub. L. 96–470 struck out proviso that construction of Uintah unit of Central Utah project not be undertaken by the Secretary until he has completed a feasibility report on such unit and submitted it to Congress, along with his certification that, in his judgment, the benefits of such unit or segment will exceed the cost and that such unit is physically and financially feasible, and that the Congress has authorized appropriations for construction thereof.

Pub. L. 96–375 substituted ''Wayne N. Aspinall'' for ''Curecanti''.

1968—Pub. L. 90–537 added Uintah unit to initial phase in Central Utah project, substituted ''Animas-La Plata, Dolores, Dallas Creek, West Divide, San Miguel'' for ''Pine River Extension'', and inserted proviso prohibiting construction of Uintah unit of Central Utah project until a feasibility study is made, a determination is made that its benefits will exceed its costs and an authorization for appropriations is made by Congress.

1964—Pub. L. 88–568 included Savery-Pot Hook, Bostwick Park, and Fruitland Mesa as participating projects.

1962—Pub. L. 87–483 included San Juan-Chama (initial stage) and Navajo Indian as participating projects in cl. (2).

TERMINATION DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–11 to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note below.

SHORT TITLE

Act Apr. 11, 1956, which enacted this chapter, is popularly known as the ''Colorado River Storage Project Act''.

PURPOSE OF 1968 AMENDMENT

Section 501(a) of Pub. L. 90–537 provided that the amendment of this section and section 620a of this title by such section 501(a) were made in order to provide for the construction, operation, and maintenance of the Animas-La Plata Federal reclamation project, Colorado-New Mexico; the Dolores, Dallas Creek, West Divide, and San Miguel Federal reclamation projects, Colorado; and the Central Utah project (Uintah Unit), Utah, as participating projects under the Colorado River Storage Project Act, and to provide for the completion of planning reports on other participating projects.

EFFECT ON FEDERAL WATER LAW

Pub. L. 111–11, title X, §10403, Mar. 30, 2009, 123 Stat. 1375, provided that: ''Unless expressly provided in this subtitle [subtitle B (§§10301–10704) of title X of Pub. L. 111–11, enacting section 407, former section 615jj, and section 620n–1 of this title, amending this section, former section 615ss, and section 620*o* of this title, repealing former section 615jj of this title, and enacting provisions set out as notes under this section and section 407 of this title], nothing in this subtitle modifies, conflicts with, preempts, or otherwise affects—

''(1) the Boulder Canyon Project Act (43 U.S.C. 617 et seq.);

''(2) the Boulder Canyon Project Adjustment Act (54 Stat. 774, chapter 643) [43 U.S.C. 618 et seq.];

''(3) the Act of April 11, 1956 (commonly known as the 'Colorado River Storage Project Act') (43 U.S.C. 620 et seq.);

''(4) the Act of September 30, 1968 (commonly known as the 'Colorado River Basin Project Act') (82 Stat. 885) [43 U.S.C. 1501 et seq.];

''(5) Public Law 87–483 (76 Stat. 96) [former 43 U.S.C. 615ii et seq.];

''(6) the Treaty between the United States of America and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington February 3, 1944 (59 Stat. 1219);

''(7) the Colorado River Compact of 1922, as approved by the Presidential Proclamation of June 25, 1929 (46 Stat. 3000);

''(8) the Compact;

''(9) the Act of April 6, 1949 (63 Stat. 31, chapter 48);

''(10) the Jicarilla Apache Tribe Water Rights Settlement Act (106 Stat. 2237); or

''(11) section 205 of the Energy and Water Development Appropriations Act, 2005 (118 Stat. 2949).''

[Section 10403 Pub. L. 111–11, set out above, to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note below.]

[For definition of Compact, see section 10302 of Pub. L. 111–11, set out as a Definitions note under section 407 of this title.]

AGREEMENT

Pub. L. 111–11, title X, §10701, Mar. 30, 2009, 123 Stat. 1396, provided that:

''(a) AGREEMENT APPROVAL.—

''(1) APPROVAL BY CONGRESS.—Except to the extent that any provision of the Agreement conflicts with this subtitle [subtitle B (§§10301–10704) of title X of Pub. L. 111–11, see Effect on Federal Water Law note above], Congress approves, ratifies, and confirms the Agreement (including any amendments to the Agreement that are executed to make the Agreement consistent with this subtitle).

''(2) EXECUTION BY SECRETARY.—The Secretary shall enter into the Agreement to the extent that the Agreement does not conflict with this subtitle, including—

''(A) any exhibits to the Agreement requiring the signature of the Secretary; and

''(B) any amendments to the Agreement necessary to make the Agreement consistent with this subtitle.

''(3) AUTHORITY OF SECRETARY.—The Secretary may carry out any action that the Secretary determines is necessary or appropriate to implement the Agreement, the Contract, and this section.

''(4) ADMINISTRATION OF NAVAJO RESERVOIR RELEASES.—The State of New Mexico may administer water that has been released from storage in Navajo Reservoir in accordance with subparagraph 9.1 of the Agreement.

''(b) WATER AVAILABLE UNDER CONTRACT.—

''(1) QUANTITIES OF WATER AVAILABLE.—

''(A) IN GENERAL.—Water shall be made available annually under the Contract for projects in the State of New Mexico supplied from the Navajo Reservoir and the San Juan River (including tributaries of the River) under New Mexico State Engineer File Numbers 2849, 2883, and 3215 in the quantities described in subparagraph (B).

''(B) WATER QUANTITIES.—The quantities of water referred to in subparagraph (A) are as follows:

| | Diversion (acre-feet/year) | Depletion (acre-feet/year) |
|---|---|---|
| Navajo Indian Irrigation Project | 508,000 | 270,000 |

| | Diversion (acre-feet/year) | Depletion (acre-feet/year) |
|---|---|---|
| Navajo-Gallup Water Supply Project | 22,650 | 20,780 |
| Animas-La Plata Project | 4,680 | 2,340 |
| Total | 535,330 | 293,120 |

''(C) MAXIMUM QUANTITY.—A diversion of water to the Nation under the Contract for a project described in subparagraph (B) shall not exceed the quantity of water necessary to supply the amount of depletion for the project.

''(D) TERMS, CONDITIONS, AND LIMITATIONS.—The diversion and use of water under the Contract shall be subject to and consistent with the terms, conditions, and limitations of the Agreement, this subtitle, and any other applicable law.

''(2) AMENDMENTS TO CONTRACT.—The Secretary, with the consent of the Nation, may amend the Contract if the Secretary determines that the amendment is—

''(A) consistent with the Agreement; and

''(B) in the interest of conserving water or facilitating beneficial use by the Nation or a subcontractor of the Nation.

''(3) RIGHTS OF THE NATION.—The Nation may, under the Contract—

''(A) use tail water, wastewater, and return flows attributable to a use of the water by the Nation or a subcontractor of the Nation if—

''(i) the depletion of water does not exceed the quantities described in paragraph (1); and

''(ii) the use of tail water, wastewater, or return flows is consistent with the terms, conditions, and limitations of the Agreement, and any other applicable law; and

''(B) change a point of diversion, change a purpose or place of use, and transfer a right for depletion under this subtitle (except for a point of diversion, purpose or place of use, or right for depletion for use in the State of Arizona under section 10603(b)(2)(D) [123 Stat. 1383]), to another use, purpose, place, or depletion in the State of New Mexico to meet a water resource or economic need of the Nation if—

''(i) the change or transfer is subject to and consistent with the terms of the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Contract, and any other applicable law; and

''(ii) a change or transfer of water use by the Nation does not alter any obligation of the United States, the Nation, or another party to pay or repay project construction, operation, maintenance, or replacement costs under this subtitle and the Contract.

''(c) SUBCONTRACTS.—

''(1) IN GENERAL.—

''(A) SUBCONTRACTS BETWEEN NATION AND THIRD PARTIES.—The Nation may enter into subcontracts for the delivery of Project water under the Contract to third parties for any beneficial use in the State of New Mexico (on or off land held by the United States in trust for the Nation or a member of the Nation or land held in fee by the Nation).

''(B) APPROVAL REQUIRED.—A subcontract entered into under subparagraph (A) shall not be effective until approved by the Secretary in accordance with this subsection and the Contract.

''(C) SUBMITTAL.—The Nation shall submit to the Secretary for approval or disapproval any subcontract entered into under this subsection.

''(D) DEADLINE.—The Secretary shall approve or disapprove a subcontract submitted to the Secretary under subparagraph (C) not later than the later of—

''(i) the date that is 180 days after the date on which the subcontract is submitted to the Secretary; and

''(ii) the date that is 60 days after the date on which a subcontractor complies with—

''(I) section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

''(II) any other requirement of Federal law.

''(E) ENFORCEMENT.—A party to a subcontract may enforce the deadline described in subparagraph (D) under section 1361 of title 28, United States Code.

''(F) COMPLIANCE WITH OTHER LAW.—A subcontract described in subparagraph (A) shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, and any other applicable law.

''(G) NO LIABILITY.—The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

''(2) ALIENATION.—

''(A) PERMANENT ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Contract.

''(B) MAXIMUM TERM.—The term of any water use subcontract (including a renewal) under this subsection shall be not more than 99 years.

''(3) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

''(A) provides congressional authorization for the subcontracting rights of the Nation; and

''(B) is deemed to fulfill any requirement that may be imposed by section 2116 of the Revised Statutes (25 U.S.C. 177).

''(4) FORFEITURE.—The nonuse of the water supply secured by a subcontractor of the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

''(5) NO PER CAPITA PAYMENTS.—No part of the revenue from a water use subcontract under this subsection shall be distributed to any member of the Nation on a per capita basis.

''(d) WATER LEASES NOT REQUIRING SUBCONTRACTS.—

''(1) AUTHORITY OF NATION.—

''(A) IN GENERAL.—The Nation may lease, contract, or otherwise transfer to another party or to another purpose or place of use in the State of New Mexico (on or off land that is held by the United States in trust for the Nation or a member of the Nation or held in fee by the Nation) a water right that—

''(i) is decreed to the Nation under the Agreement; and

''(ii) is not subject to the Contract.

''(B) COMPLIANCE WITH OTHER LAW.—In carrying out an action under this subsection, the Nation shall comply with the Agreement, the Partial Final Decree described in paragraph 3.0 of the Agreement, the Supplemental Partial Final Decree described in paragraph 4.0 of the Agreement, and any other applicable law.

''(2) ALIENATION; MAXIMUM TERM.—

''(A) ALIENATION.—The Nation shall not permanently alienate any right granted to the Nation under the Agreement.

''(B) MAXIMUM TERM.—The term of any water use lease, contract, or other arrangement (including a renewal) under this subsection shall be not more than 99 years.

''(3) NO LIABILITY.—The Secretary shall not be liable to any party, including the Nation, for any term of, or any loss or other detriment resulting from, a lease, contract, or other agreement entered into pursuant to this subsection.

''(4) NONINTERCOURSE ACT COMPLIANCE.—This subsection—

''(A) provides congressional authorization for the lease, contracting, and transfer of any water right described in paragraph (1)(A); and

''(B) is deemed to fulfill any requirement that may be imposed by the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177).

''(5) FORFEITURE.—The nonuse of a water right of the Nation by a lessee or contractor to the Nation under this subsection shall not result in forfeiture, abandonment, relinquishment, or other loss of any part of a right decreed to the Nation under the Contract or this section.

''(e) NULLIFICATION.—

''(1) DEADLINES.—

''(A) IN GENERAL.—In carrying out this section, the following deadlines apply with respect to implementation of the Agreement:

''(i) AGREEMENT.—Not later than December 31, 2010, the Secretary shall execute the Agreement.

''(ii) CONTRACT.—Not later than December 31, 2010, the Secretary and the Nation shall execute the Contract.

''(iii) PARTIAL FINAL DECREE.—Not later than December 31, 2013, the court in the stream adjudication shall have entered the Partial Final Decree described in paragraph 3.0 of the Agreement.

''(iv) FRUITLAND-CAMBRIDGE IRRIGATION PROJECT.—Not later than December 31, 2016, the rehabilitation construction of the Fruitland-Cambridge Irrigation Project authorized under section 10607(a)(1) [123 Stat. 1394] shall be completed.

''(v) SUPPLEMENTAL PARTIAL FINAL DECREE.—Not later than December 31, 2016, the court in the stream adjudication shall enter the Supplemental Partial Final Decree described in subparagraph 4.0 of the Agreement.

''(vi) HOGBACK-CUDEI IRRIGATION PROJECT.—Not later than December 31, 2019, the rehabilitation construction of the Hogback-Cudei Irrigation Project authorized under section 10607(a)(2) [123 Stat. 1394] shall be completed.

''(vii) TRUST FUND.—Not later than December 31, 2019, the United States shall make all deposits into the Trust Fund under section 10702 [123 Stat. 1402].

''(viii) CONJUNCTIVE WELLS.—Not later than December 31, 2019, the funds authorized to be appropriated under section 10609(b)(1) [123 Stat. 1395] for the conjunctive use wells authorized under section 10606(b) [123 Stat. 1393] should be appropriated.

''(ix) NAVAJO-GALLUP WATER SUPPLY PROJECT.—Not later than December 31, 2024, the construction of all Project facilities shall be completed.

''(B) EXTENSION.—A deadline described in subparagraph (A) may be extended if the Nation, the United States (acting through the Secretary), and the State of New Mexico (acting through the New Mexico Interstate Stream Commission) agree that an extension is reasonably necessary.

''(2) REVOCABILITY OF AGREEMENT, CONTRACT AND AUTHORIZATIONS.—

''(A) PETITION.—If the Nation determines that a deadline described in paragraph (1)(A) is not substantially met, the Nation may submit to the court in the stream adjudication a petition to enter an order terminating the Agreement and Contract.

''(B) TERMINATION.—On issuance of an order to terminate the Agreement and Contract under subparagraph (A)—

''(i) the Trust Fund shall be terminated;

''(ii) the balance of the Trust Fund shall be deposited in the general fund of the Treasury;

''(iii) the authorizations for construction and rehabilitation of water projects under this subtitle shall be revoked and any Federal activity related to that construction and rehabilitation shall be suspended; and

''(iv) this part and parts I and III [parts IV (§§ 10701–10704), I (§§ 10401–10403), and III (§§ 10601–10609) of subtitle B of title X of Pub. L. 111–11, enacting former section 615jj and section 620n–1 of this title, amending this section, former section 615ss, and section 620*o* of this title, repealing former section 615jj of this title, and enacting provisions set out as notes under this section] shall be null and void.

''(3) CONDITIONS NOT CAUSING NULLIFICATION OF SETTLEMENT.—

''(A) IN GENERAL.—If a condition described in subparagraph (B) occurs, the Agreement and Contract shall not be nullified or terminated.

''(B) CONDITIONS.—The conditions referred to in subparagraph (A) are as follows:

''(i) A lack of right to divert at the capacities of conjunctive use wells constructed or rehabilitated under section 10606 [123 Stat. 1392].

''(ii) A failure—

''(I) to determine or resolve an accounting of the use of water under this subtitle in the State of Arizona;

''(II) to obtain a necessary water right for the consumptive use of water in Arizona;

''(III) to contract for the delivery of water for use in Arizona; or

''(IV) to construct and operate a lateral facility to deliver water to a community of the Nation in Arizona, under the Project.

''(f) EFFECT ON RIGHTS OF INDIAN TRIBES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in the Agreement, the Contract, or this section quantifies or adversely affects the land and water rights, or claims or entitlements to water, of any Indian tribe or community other than the rights, claims, or entitlements of the Nation in, to, and from the San Juan River Basin in the State of New Mexico.

''(2) EXCEPTION.—The right of the Nation to use water under water rights the Nation has in other river basins in the State of New Mexico shall be forborne to the extent that the Nation supplies the uses for which the water rights exist by diversions of water from the San Juan River Basin under the Project consistent with subparagraph 9.13 of the Agreement.''

[For definitions of terms used in section 10701 of Pub. L. 111–11, set out above, see section 10302 of Pub. L. 111–11, set out as a note under section 407 of this title.]

### § 620a. Priority to planning reports of certain additional participating projects; reports to States; San Juan-Chama project; Juniper project

In carrying out further investigations of projects under the Federal reclamation laws in the Upper Colorado River Basin, the Secretary shall give priority to completion of planning reports on the Gooseberry, Eagle Divide, Bluestone, Battlement Mesa, Grand Mesa, Yellow Jacket, Basalt, Middle Park (including the Troublesome, Rabbit Ear, and Azure units), Upper Gunnison (including the East River, Ohio Creek, and Tomichi Creek units), Lower Yampa (including the Juniper and Great Northern units), Upper Yampa (including the Hayden Mesa, Wessels, and Toponas units) and Sublette (including a diversion of water from the Green River to the North Platte River Basin Wyoming), Ute Indian unit of the Central Utah Project, San Juan County (Utah), Price River, Grand County (Utah), Gray Canyon, and Juniper (Utah) participating projects: *Provided*, That the planning report for the Ute Indian unit of the Central Utah participating project shall be completed on or before December 31, 1974, to enable the United States of America to meet the commitments heretofore made to the Ute Indian Tribe of the Uintah and Ouray Indian Reservation under the agreement dated September 20, 1965 (Contract Numbered 14–06–W–194). Said reports shall be

completed as expeditiously as funds are made available therefor and shall be submitted promptly to the affected States, which in the case of the San Juan-Chama project shall include the State of Texas, and thereafter to the President and the Congress: *Provided*, That with reference to the plans and specifications for the San Juan-Chama project, the storage for control and regulation of water imported from the San Juan River shall (1) be limited to a single off-stream dam and reservoir on a tributary of the Chama River, (2) be used solely for control and regulation and no power facilities shall be established, installed or operated thereat, and (3) be operated at all times by the Bureau of Reclamation of the Department of the Interior in strict compliance with the Rio Grande Compact as administered by the Rio Grande Compact Commission. The preparation of detailed designs and specifications for the works proposed to be constructed in connection with projects shall be carried as far forward as the investigations thereof indicate is reasonable in the circumstances.

The Secretary, concurrently with the investigations directed by the preceding paragraph, shall also give priority to completion of a planning report on the Juniper project.

(Apr. 11, 1956, ch. 203, § 2, 70 Stat. 106; Pub. L. 87–483, § 18, June 13, 1962, 76 Stat. 102; Pub. L. 88–568, § 1, Sept. 2, 1964, 78 Stat. 852; Pub. L. 90–537, title V, § 501(a), Sept. 30, 1968, 82 Stat. 897.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are identified in section 620c of this title.

CODIFICATION

The provisions of subsec. (a) of section 501 of Pub. L. 90–537 which amended this section are only a part of said subsec. (a). The remainder of subsec. (a), amended section 620 of this title and enacted provisions set out as notes under sections 620 and 620k of this title.

AMENDMENTS

1968—Pub. L. 90–537 substituted Basalt, Middle Park (including Troublesome, Rabbit Ear, and Azure units), Upper Gunnison (including the East River, Ohio Creek, and Tomichi Creek units), Lower Yampa (including Juniper and Great Northern units), and Upper Yampa (including Hayden Mesa, Wessels, and Toponas units) projects for Parshall, Troublesome, Rabbit Ear, San Miguel, West Divide, Tomichi Creek, East River, Ohio Creek, Dallas Creek, Dolores, Fruit Growers Extension, and Animas-La Plata projects, added Ute Indian unit of the Central Utah Project, San Juan County (Utah), Price River, Grand County (Utah), Gray Canyon, and Juniper (Utah) projects, and that portion of the Sublette projects consisting of a diversion of water from the Green River to the North Platte River Basin in Wyoming to the list of participating projects, and inserted proviso that planning report for Ute Indian unit of Central Utah project be completed on or before December 31, 1974.

1964—Pub. L. 88–568 struck out ", Fruitland Mesa, Bostwick Park" and ", Savery-Pot Hook" after "Ohio Creek" and "Dallas Creek", respectively.

1962—Pub. L. 87–483 struck out "San Juan-Chama, Navajo" after "Gooseberry," in first sentence.

STORAGE OF WATER AT ABIQUIU DAM IN NEW MEXICO

Pub. L. 100–522, Oct. 24, 1988, 102 Stat. 2604, provided that:

"SECTION 1. WATER STORAGE.

"Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to store 200,000 acre-feet of Rio Grande system water at Abiquiu Dam, New Mexico, in lieu of the water storage authorized by section 5 of Public Law 97–140 [set out below], to the extent that contracting entities under section 5 of Public Law 97–140 no longer require such storage. The Secretary is authorized further to acquire lands adjacent to Abiquiu Dam on which the Secretary holds easements as of the date of enactment of this Act [Oct. 24, 1988] if such acquisition is necessary to assure proper recreational access at Abiquiu Dam. The Secretary is further directed to report to Congress as soon as possible with recommendations on additional easements that may be required to assure implementation of this Act.

"SEC. 2. LIMITATION.

"The authorization to store water and to acquire lands under section 1 is subject to the provisions of the Rio Grande Compact and the resolutions of the Rio Grande Compact Commission."

STORAGE OF SAN JUAN-CHAMA PROJECT WATER IN OTHER RESERVOIRS

Pub. L. 97–140, § 5, Dec. 29, 1981, 95 Stat. 1717, provided that:

"(a) The proviso of section 2 of Public Law 84–485 [this section] shall not be construed to prohibit the storage of San Juan-Chama project water acquired by contract with the Secretary of the Interior pursuant to Public Law 87-483 [section 615ii et seq. of this title] in any reservoir, including the storage of water for recreation and other beneficial purposes by any party contracting with the Secretary for project water.

"(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized to enter into agreements with entities which have contracted with the Secretary of the Interior for water from the San Juan-Chama project pursuant to Public Law 87-483 for storage of a total of two hundred thousand acre-feet of such water in Abiquiu Reservoir. The Secretary of the Interior is hereby authorized to release San Juan-Chama project water to contracting entities for such storage. The agreements to thus store San Juan-Chama project water shall not interfere with the authorized purposes of the Abiquiu Dam and Reservoir project and shall include a requirement that each user of storage space shall pay any increase in operation and maintenance costs attributable to the storage of that user's water.

"(c) The Secretary of the Interior is authorized to enter into agreements with entities which have contracted with the Secretary of the Interior for water from the San Juan-Chama project pursuant to Public Law 87-483 for storage of such water in Elephant Butte Reservoir. The Secretary of the Interior is hereby authorized to release San Juan-Chama project water to contracting entities for such storage. Any increase in operation and maintenance costs resulting from such storage not offset by increased power revenues resulting from that storage shall be paid proportionately by the entities for which the San Juan-Chama project water is stored.

"(d) The amount of evaporation loss and spill chargeable to San Juan-Chama project water stored pursuant to subsections (b) and (c) of this section shall be accounted as required by the Rio Grande compact and the procedures established by the Rio Grande Compact Commission."

## § 620a–1. Construction of participating projects to be concurrent with Central Arizona Project

The Secretary is directed to proceed as nearly as practicable with the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel participating Federal

reclamation projects concurrently with the construction of the Central Arizona Project, to the end that such projects shall be completed not later than the date of the first delivery of water from said Central Arizona Project: *Provided*, That an appropriate repayment contract for each of said participating projects shall have been executed as provided in section 620c of this title before construction shall start on that particular project.

(Pub. L. 90–537, title V, § 501(b), Sept. 30, 1968, 82 Stat. 897.)

CODIFICATION

Section consists of subsec. (b) of section 501 of Pub. L. 90–537. Subsecs. (a), (d), and (e) of section 501 are classified to sections 620, 620 note, 620a, 620a–2, 620c–1, and 620k note of this title. Subsec. (c) and (f) of section 501 are not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act, and not as part of act Apr. 11, 1956, popularly known as the Colorado River Storage Project Act, which comprises this chapter.

### § 620a–2. Establishment of nonexcess irrigable acreage for participating projects

The Secretary shall, for the Animas-La Plata, Dolores, Dallas Creek, San Miguel, West Divide, and Seedskadee participating projects of the Colorado River storage project, establish the nonexcess irrigable acreage for which any single ownership may receive project water at one hundred and sixty acres of class 1 land or the equivalent thereof, as determined by the Secretary, in other land classes.

(Pub. L. 90–537, title V, § 501(d), Sept. 30, 1968, 82 Stat. 898.)

CODIFICATION

Section consists of subsec. (d) of section 501 of Pub. L. 90–537. Subsecs. (a), (b), and (e) of section 501 are classified to sections 620, 620 note, 620a, 620a–1, 620c–1, and 620k note of this title. Subsecs. (c) and (f) of section 501 are not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act, and not as part of act Apr. 11, 1956, popularly known as the Colorado River Storage Project Act, which comprises this chapter.

### § 620b. Congressional intent; additional undesignated projects not precluded; construction not authorized within national park or monument

It is not the intention of Congress, in authorizing only those projects designated in section 620 of this title, and in authorizing priority in planning only those additional projects designated in section 620a of this title, to limit, restrict, or otherwise interfere with such comprehensive development as will provide for the consumptive use by States of the Upper Colorado River Basin of waters, the use of which is apportioned to the Upper Colorado River Basin by the Colorado River Compact and to each State thereof by the Upper Colorado River Basin Compact, nor to preclude consideration and authorization by the Congress of additional projects under the allocations in the compacts as additional needs are indicated. It is the intention of Congress that no dam or reservoir constructed under the authorization of this chapter shall be within any national park or monument.

(Apr. 11, 1956, ch. 203, § 3, 70 Stat. 107.)

### § 620c. Laws governing; irrigation repayment contracts; time for making contract; contracts for municipal water; payment by Indian lands; restricted delivery of water for excess commodity; apportionments of use

Except as otherwise provided in this chapter, in constructing, operating, and maintaining the units of the Colorado River storage project and the participating projects listed in section 620 of this title, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto): *Provided*, That (a) irrigation repayment contracts shall be entered into which, except as otherwise provided for the Paonia and Eden projects, provide for repayment of the obligation assumed thereunder with respect to any project contract unit over a period of not more than fifty years exclusive of any development period authorized by law; (b) prior to construction of irrigation distribution facilities, repayment contracts shall be made with an ''organization'' as defined in section 485a(g) of this title which has the capacity to levy assessments upon all taxable real property located within its boundaries to assist in making repayments, except where a substantial proportion of the lands to be served are owned by the United States; (c) contracts relating to municipal water supply may be made without regard to the limitations of the last sentence of section 485h(c) of this title; and (d), as to Indian lands within, under or served by any participating project, payment of construction costs within the capability of the land to repay shall be subject to section 386a of title 25: *Provided further*, That for a period of ten years from April 11, 1956, no water from any participating project authorized by this chapter shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949 [7 U.S.C. 1421 et seq.], or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marketed is in excess of the normal supply as defined in section 1301(b)(10) of title 7 unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. All units and participating projects shall be subject to the apportionments of the use of water between the Upper and Lower Basins of the Colorado River and among the States of the Upper Basin fixed in the Colorado River Compact and the Upper Colorado River Basin Compact, respectively, and to the terms of the treaty with the United Mexican States (Treaty Series 994).

(Apr. 11, 1956, ch. 203, § 4, 70 Stat. 107.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is 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 Agricultural Act of 1949, referred to in text, is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended,

which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

### § 620c–1. Laws governing priority of appropriation

In the diversion and storage of water for any project or any parts thereof constructed under the authority of the Colorado River Basin Project Act [43 U.S.C. 1501 et seq.] or the Colorado River Storage Project Act [43 U.S.C. 620 et seq.] within and for the benefit of the State of Colorado only, the Secretary is directed to comply with the constitution and statutes of the State of Colorado relating to priority of appropriation; with State and Federal court decrees entered pursuant thereto; and with operating principles, if any, adopted by the Secretary and approved by the State of Colorado.

(Pub. L. 90–537, title V, § 501(e), Sept. 30, 1968, 82 Stat. 898.)

REFERENCES IN TEXT

The Colorado River Basin Project Act, referred to in text, 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. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

CODIFICATION

Section consists of subsec. (e) of section 501 of Pub. L. 90–537. Subsecs. (a), (b), and (d) of section 501 are classified to sections 620, 620 note, 620a, 620a–1, 620a–2, and 620k note of this title. Subsecs. (c) and (f) of section 501 are not classified to the Code.

Section was enacted as part of the Colorado River Basin Project Act, and not as part of act Apr. 11, 1956, popularly known as the Colorado River Storage Project Act, which comprises this chapter.

### § 620d. Upper Colorado River Basin Fund

#### (a) Authorization and availability

There is authorized a separate fund in the Treasury of the United States to be known as the Upper Colorado River Basin Fund (hereinafter referred to as the Basin Fund), which shall remain available until expended, as hereafter provided, for carrying out provisions of this chapter other than section 620g of this title.

#### (b) Crediting of appropriations

All appropriations made for the purpose of carrying out the provisions of this chapter, other than section 620g of this title shall be credited to the Basin Fund as advances from the general fund of the Treasury.

#### (c) Crediting and availability of revenues

All revenues collected in connection with the operation of the Colorado River storage project and participating projects shall be credited to the Basin Fund, and shall be available, without further appropriation, for (1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the Colorado River storage project and participating projects, within such separate limitations as may be included in annual appropriation acts: *Provided*, That with respect to each participating project, such costs shall be paid from revenues received from each such project; (2) payment as required by subsection (d) of this section; and (3) payment as required by subsection (e) of this section. Revenues credited to the Basin Fund shall not be available for appropriation for construction of the units and participating projects authorized by or pursuant to this chapter.

#### (d) Payments of revenues in excess of operating needs to Treasury

Revenues in the Basin Fund in excess of operating needs shall be paid annually to the general fund of the Treasury to return—

(1) the costs of each unit, participating project, or any separable feature thereof which are allocated to power pursuant to section 620e of this title, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(2) the costs of each unit, participating project, or any separable feature thereof which are allocated to municipal water supply pursuant to section 620e of this title, within a period not exceeding fifty years from the date of completion of such unit, participating project, or separable feature thereof;

(3) interest on the unamortized balance of the investment (including interest during construction) in the power and municipal water supply features of each unit, participating project, or any separable feature thereof, at a rate determined by the Secretary of the Treasury as provided in subsection (f) of this section, and interest due shall be a first charge;

(4) the costs of each storage unit which are allocated to irrigation pursuant to section 620e of this title within a period not exceeding fifty years; and

(5) the costs of each salinity control unit or separable feature thereof, the costs of measures to replace incidental fish and wildlife values foregone, and the costs of the on-farm measures payable from the Upper Colorado River Basin Fund in accordance with sections 1595(a)(2), 1595(a)(3), and 1595(c) of this title.

#### (e) Apportionment of excess revenues among States

Revenues in the Basin Fund in excess of the amounts needed to meet the requirements of clause (1) of subsection (c) of this section, and to return to the general fund of the Treasury the costs set out in subsection (d) of this section, shall be apportioned among the States of the Upper Division in the following percentages: Colorado, 46 per centum; Utah, 21.5 per centum; Wyoming, 15.5 per centum; and New Mexico, 17 per centum: *Provided*, That prior to the application of such percentages, all revenues remaining in the Basin Fund from each participating project (or part thereof), herein or hereafter authorized, after payments, where applicable, with respect to such projects, to the general fund of the Treasury under subparagraphs (1), (2), and (3) of subsection (d) of this section shall be ap-

portioned to the State in which such participating project, or part thereof, is located.

Revenues so apportioned to each State shall be used only for the repayment of construction costs of participating projects or parts of such projects in the State to which such revenues are apportioned and shall not be used for such purpose in any other State without the consent, as expressed through its legally constituted authority, of the State to which such revenues are apportioned. Subject to such requirement, there shall be paid annually into the general fund of the Treasury from the revenues apportioned to each State (1) the costs of each participating project herein authorized (except Paonia) or any separable feature thereof, which are allocated to irrigation pursuant to section 620e of this title, within a period not exceeding fifty years, in addition to any development period authorized by law, from the date of completion of such participating project or separable feature thereof, or, in the case of Indian lands, payment in accordance with section 620c of this title; (2) costs of the Paonia project, which are beyond the ability of the water users to repay, within a period prescribed in the Act of June 25, 1947 (61 Stat. 181); and (3) costs in connection with the irrigation features of the Eden project as specified in the Act of June 28, 1949 (63 Stat. 277).

**(f) Determination of interest rate**

The interest rate applicable to each unit of the storage project and each participating project for purposes of computing interest during construction and interest on the unpaid balance shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from the date of issue.

**(g) Budget to be submitted to Congress**

Business-type budgets shall be submitted to the Congress annually for all operations financed by the Basin Fund.

(Apr. 11, 1956, ch. 203, § 5, 70 Stat. 107; Pub. L. 86–529, § 9 (part), June 27, 1960, 74 Stat. 227; Pub. L. 87–483, § 18, June 13, 1962, 76 Stat. 102; Pub. L. 93–320, title II, § 205(d), June 24, 1974, 88 Stat. 273; Pub. L. 98–569, § 4(h), Oct. 30, 1984, 98 Stat. 2939.)

REFERENCES IN TEXT

Act of June 25, 1947, referred to in subsec. (e), is act June 25, 1947, ch. 148, 61 Stat. 181, which authorized the construction, operation, and maintenance of the Paonia Federal reclamation project, Colorado, and which is not classified to the Code.

Act of June 28, 1949, referred to in subsec. (e), is act June 28, 1949, ch. 255, 63 Stat. 277, which authorized the completion of construction and development of the Eden project, Wyoming, and which is not classified to the Code.

AMENDMENTS

1984—Subsec. (d)(5). Pub. L. 98–569 inserted ‘‘, the costs of measures to replace incidental fish and wildlife values foregone, and the costs of the on-farm measures’’ before ‘‘payable’’.

1974—Subsec. (d)(5). Pub. L. 93–320 added par. (5).

1962—Subsec. (e). Pub. L. 87–483 substituted ‘‘hereafter’’ for ‘‘hereinafter’’ in proviso in first par.

1960—Subsec. (f). Pub. L. 86–529 required Secretary, for purposes of computing interest during construction and interest on unpaid balance, to determine interest rate as of beginning of fiscal year in which construction is initiated, on basis of computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 9 of Pub. L. 86–529 provided that the amendment made by that section is effective June 1, 1960.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (g) of this section is listed as the 8th item on page 114), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

## § 620d–1. Reimbursement of Fund from Colorado River Development Fund; operation of Hoover Dam

The Upper Colorado River Basin Fund established under section 620d of this title shall be reimbursed from the Colorado River Development Fund established by section 618a of this title for the money expended heretofore or hereafter from the Upper Colorado River Basin Fund to meet deficiencies in generation at Hoover Dam during the filling period of storage units of the Colorado River storage project pursuant to the criteria for the filling of Glen Canyon Reservoir (27 Fed. Reg. 6851, July 19, 1962). For this purpose, $500,000 for each year of operation of Hoover Dam and powerplant, commencing with fiscal year 1970, shall be transferred from the Colorado River Development Fund to the Upper Colorado River Basin Fund, in lieu of application of said amounts to the purposes stated in section 618a(d) of this title, until such reimbursement is accomplished. To the extent that any deficiency in such reimbursement remains as of June 1, 1987, the amount of the remaining deficiency shall then be transferred to the Upper Colorado River Basin Fund from the Lower Colorado River Basin Development Fund, as provided in section 1543(g) of this title.

(Pub. L. 90–537, title V, § 502, Sept. 30, 1968, 82 Stat. 898.)

CODIFICATION

Section was enacted as part of the Colorado River Basin Project Act, and not as part of act Apr. 11, 1956, popularly known as the Colorado River Storage Project Act, which comprises this chapter.

## § 620e. Cost allocations; Indian lands; report to Congress

Upon completion of each unit, participating project or separable feature thereof, the Secretary shall allocate the total costs (excluding any expenditures authorized by section 620g of

this title) of constructing said unit, project or feature to power, irrigation, municipal water supply, flood control, navigation, or any other purposes authorized under reclamation law. Allocations of construction, operation and maintenance costs to authorized nonreimbursable purposes shall be nonreturnable under the provisions of this chapter. In the event that the Navajo participating project is authorized, the costs allocated to irrigation of Indian-owned tribal or restricted lands within, under, or served by such project, and beyond the capability of such lands to repay, shall be determined, and, in recognition of the fact that assistance to the Navajo Indians is the responsibility of the entire nation, such costs shall be nonreimbursable. On January 1 of each year the Secretary shall report to the Congress for the previous fiscal year, beginning with the fiscal year 1957, upon the status of the revenues from, and the cost of, constructing, operating, and maintaining the Colorado River storage project and the participating projects. The Secretary's report shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment.

(Apr. 11, 1956, ch. 203, § 6, 70 Stat. 109.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed as the 11th item on page 114), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

### § 620f. Powerplant operations

The hydroelectric powerplants and transmission lines authorized by this chapter to be constructed, operated, and maintained by the Secretary shall be operated in conjunction with other Federal powerplants, present and potential, so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates, but in the exercise of the authority hereby granted he shall not affect or interfere with the operation of the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act [43 U.S.C. 617 et seq.], the Boulder Canyon Project Adjustment Act [43 U.S.C. 618 et seq.], and any contract lawfully entered into under said Compacts and Acts. Subject to the provisions of the Colorado River Compact, neither the impounding nor the use of water for the generation of power and energy at the plants of the Colorado River storage project shall preclude or impair the appropriation of water for domestic or agricultural purposes pursuant to applicable State law.

(Apr. 11, 1956, ch. 203, § 7, 70 Stat. 109; Pub. L. 87–483, § 18, June 13, 1962, 76 Stat. 102.)

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 chapter 12A of this title. 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 text, is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

AMENDMENTS

1962—Pub. L. 87–483 substituted "into" for "unto".

### § 620g. Recreational and fish and wildlife facilities

In connection with the development of the Colorado River storage project and of the participating projects, the Secretary is authorized and directed to investigate, plan, construct, operate, and maintain (1) public recreational facilities on lands withdrawn or acquired for the development of said project or of said participating projects, to conserve the scenery, the natural, historic, and archeologic objects, and the wildlife on said lands, and to provide for public use and enjoyment of the same and of the water areas created by these projects by such means as are consistent with the primary purposes of said projects; and (2) facilities to mitigate losses of, and improve conditions for, the propagation of fish and wildlife. The Secretary is authorized to acquire lands necessary for the construction, operation, and maintenance of the facilities herein provided, and to dispose of them to Federal, State, and local governmental agencies by lease, transfer, exchange, or conveyance upon such terms and conditions as will best promote their development and operation in the public interest. All costs incurred pursuant to this section shall be nonreimbursable and nonreturnable.

(Apr. 11, 1956, ch. 203, § 8, 70 Stat. 110; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Pub. L. 94–579 struck out provisions authorizing withdrawal of public lands from entry or other disposition under the public land laws.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 620h. Saving provisions

Nothing contained in this chapter shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.], the Boulder Canyon Project Adjustment Act (54 Stat. 774) [43 U.S.C. 618 et seq.], the Colorado River Compact, the Upper Colorado River Basin Compact, the Rio Grande Compact of 1938, or the treaty with the United Mexican States (Treaty Series 994).

(Apr. 11, 1956, ch. 203, § 9, 70 Stat. 110.)

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 chapter 12A of this title. 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 text, is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

### § 620i. Expenditures; units excepted from soil survey and land classification requirements

Expenditures for the Flaming Gorge, Glen Canyon, Wayne N. Aspinall, and Navajo initial units of the Colorado River storage project may be made without regard to the soil survey and land classification requirements of section 390a[1] of this title.

(Apr. 11, 1956, ch. 203, § 10, 70 Stat. 110; Pub. L. 96–375, § 7, Oct. 3, 1980, 94 Stat. 1507.)

REFERENCES IN TEXT

Section 390a of this title, referred to in text, was in the original a reference to the Interior Department Appropriation Act, 1954. The soil survey and land classification requirements of that Act (act July 31, 1953, ch. 298, 67 Stat. 261, 266) were classified to section 390a of this title, prior to repeal by Pub. L. 105–362, title IX, § 901(e)(2), Nov. 10, 1998, 112 Stat. 3289.

AMENDMENTS

1980—Pub. L. 96–375 substituted ''Wayne N. Aspinall'' for ''Curecanti''.

### § 620j. Court decree; effectivity and approval

The Final Judgment, Final Decree and stipulations incorporated therein in the consolidated cases of United States of America v. Northern Colorado Water Conservancy District, et al., Civil Nos. 2782, 5016 and 5017, in the United States District Court for the District of Colorado, are approved, shall become effective immediately, and the proper agencies of the United States shall act in accordance therewith.

(Apr. 11, 1956, ch. 203, § 11, 70 Stat. 110.)

### § 620k. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be required to carry out the purposes of this chapter, but not to exceed $760,000,000.

(Apr. 11, 1956, ch. 203, § 12, 70 Stat. 110.)

CHANGE OF NAME

Pub. L. 96–375, § 7, Oct. 3, 1980, 94 Stat. 1507, provided that: ''The Curecanti Storage Unit of the Colorado River Storage Project constructed under the authority of the Act of April 11, 1956 (70 Stat. 106) [this chapter] is hereby designated and hereafter shall be known as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project. Any law, regulation, record, map, or other document of the United States referring to the Curecanti Storage Unit shall be held to refer to the Wayne N. Aspinall Storage Unit.''

[1] See References in Text note below.

TERMINATION OF AUTHORIZATION OF APPROPRIATIONS

Pub. L. 102–575, title II, § 201(c), Oct. 30, 1992, 106 Stat. 4607, provided that: ''Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k) [this chapter], the Act of September 2, 1964 (78 Stat. 852) [Pub. L. 88–568, see Tables for classification], the Act of September 30, 1968 (82 Stat. 885) [see Short Title note set out under section 1501 of this title], the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) [enacting section 79–1 of Title 16, Conservation, and provisions set out as notes under this section and section 461 of Title 16] to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act [Oct. 30, 1992] unless: (1) the Secretary [of the Interior] executes a cost-sharing agreement with the District [Central Utah Water Conservancy District] for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project.''

AUTHORIZATION OF ADDITIONAL AMOUNTS FOR COLORADO RIVER STORAGE PROJECT

Pub. L. 102–575, title II, § 201(a)(1), Oct. 30, 1992, 106 Stat. 4606, provided that: ''In order to provide for the completion of the Central Utah Project and other features described in this Act [see Short Title of 1992 Amendment note set out under section 371 of this title], the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826) [43 U.S.C. 620k note], is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided, however*, That of the amounts authorized to be appropriated by this section, the Secretary [of the Interior] is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429 [S. Rept. No. 102–267, One Hundred Second Congress]. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act [106 Stat. 4605] and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act [106 Stat. 4625, 4648], and for the Ute Indian Settlement authorized in title V of this Act [106 Stat. 4650].''

Pub. L. 100–563, § 1, Oct. 31, 1988, 102 Stat. 2826, provided that: ''In order to provide for the continued construction of the Colorado River Storage Project, and for the continued construction of the municipal and industrial water features of the Bonneville Unit of the Central Utah Project, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), is hereby further increased by $45,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named in such Act of August 10, 1972.''

ADDITIONAL APPROPRIATIONS AUTHORIZED FOR CERTAIN PROJECTS IN THE UPPER COLORADO RIVER BASIN

Pub. L. 92–370, Aug. 10, 1972, 86 Stat. 525, provided: ''That in order to provide for completion of construction of the Curecanti, Flaming Gorge, Glen Canyon, and Navajo units, and transmission division of the Col-

orado River storage project, and for completion of construction of the following participating projects: Central Utah (initial phase—Bonneville, Jensen, Upalco, and Vernal units), Emery County, Florida, Hammond, LaBarge, Lyman, Paonia, Seedskadee, Silt, and Smith Fork; the amount which section 12 of the Act of April 11, 1956 (79 Stat. 105) [this section] authorizes to be appropriated is hereby further increased by the sum of $610,000,000, plus or minus such amounts, if any, as may be required, by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named herein.''

ADDITIONAL APPROPRIATIONS AUTHORIZED FOR CONSTRUCTION OF ANIMAS-LA PLATA, DOLORES, DALLAS CREEK, WEST DIVIDE, AND SAN MIGUEL PROJECTS

Pub. L. 90–537, title V, § 501(a), Sept. 30, 1968, 82 Stat. 897, provided in part that: ''The amount which section 12 of said Act [this section] authorizes to be appropriated is hereby further increased by the sum of $392,000,000 plus or minus such amounts, if any, as may be required, by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved. This additional sum shall be available solely for the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel projects herein authorized.''

### § 620*l*. Net power revenues

In planning the use of, and in using credits from, net power revenues available for the purpose of assisting in the pay-out of costs of participating projects herein and hereafter authorized in the States of Colorado, New Mexico, Utah, and Wyoming, the Secretary shall have regard for the achievement within each of said States of the fullest practicable use of the waters of the Upper Colorado River system, consistent with the apportionment thereof among such States.

(Apr. 11, 1956, ch. 203, § 13, 70 Stat. 110.)

### § 620m. Compliance with law required in operation of facilities; enforcement of provisions

In the operation and maintenance of all facilities, authorized by Federal law and under the jurisdiction and supervision of the Secretary of the Interior, in the basin of the Colorado River, the Secretary of the Interior is directed to comply with the applicable provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, the Boulder Canyon Project Act [43 U.S.C. 617 et seq.], the Boulder Canyon Project Adjustment Act [43 U.S.C. 618 et seq.], and the Treaty with the United Mexican States, in the storage and release of water from reservoirs in the Colorado River Basin. In the event of the failure of the Secretary of the Interior to so comply, any State of the Colorado River Basin may maintain an action in the Supreme Court of the United States to enforce the provisions of this section, and consent is given to the joinder of the United States as a party in such suit or suites, as a defendant or otherwise.

(Apr. 11, 1956, ch. 203, § 14, 70 Stat. 110.)

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 chapter 12A of this title. 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 text, is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

### § 620n. Water quality study and reports

The Secretary of the Interior is directed to continue studies and to make a report to the Congress and to the States of the Colorado River Basin on the quality of water of the Colorado River.

(Apr. 11, 1956, ch. 203, § 15, 70 Stat. 111.)

### § 620n–1. Top water bank

(a) The Secretary of the Interior may create and operate within the available capacity of Navajo Reservoir a top water bank.

(b) Water made available for the top water bank in accordance with subsections (c) and (d) shall not be subject to section 11 of Public Law 87–483 (76 Stat. 99).

(c) The top water bank authorized under subsection (a) shall be operated in a manner that—

(1) is consistent with applicable law, except that, notwithstanding any other provision of law, water for purposes other than irrigation may be stored in the Navajo Reservoir pursuant to the rules governing the top water bank established under this section; and

(2) does not impair the ability of the Secretary of the Interior to deliver water under contracts entered into under—

(A) Public Law 87–483 (76 Stat. 96); and

(B) New Mexico State Engineer File Nos. 2847, 2848, 2849, and 2917.

(d)(1) The Secretary of the Interior, in cooperation with the State of New Mexico (acting through the Interstate Stream Commission), shall develop any terms and procedures for the storage, accounting, and release of water in the top water bank that are necessary to comply with subsection (c).

(2) The terms and procedures developed under paragraph (1) shall include provisions requiring that—

(A) the storage of banked water shall be subject to approval under State law by the New Mexico State Engineer to ensure that impairment of any existing water right does not occur, including storage of water under New Mexico State Engineer File No. 2849;

(B) water in the top water bank be subject to evaporation and other losses during storage;

(C) water in the top water bank be released for delivery to the owner or assigns of the banked water on request of the owner, subject to reasonable scheduling requirements for making the release;

(D) water in the top water bank be the first water spilled or released for flood control purposes in anticipation of a spill, on the condition that top water bank water shall not be released or included for purposes of calculating whether a release should occur for purposes of satisfying the flow recommendations of the

San Juan River Basin Recovery Implementation Program; and

(E) water eligible for banking in the top water bank shall be water that otherwise would have been diverted and beneficially used in New Mexico that year.

(e) The Secretary of the Interior may charge fees to water users that use the top water bank in amounts sufficient to cover the costs incurred by the United States in administering the water bank.

(Apr. 11, 1956, ch. 203, § 16, as added Pub. L. 111–11, title X, § 10401(b)(2), Mar. 30, 2009, 123 Stat. 1371.)

TERMINATION OF SECTION

*For termination of section by section 10701(e)(2) of Pub. L. 111–11, see Termination Date note below.*

REFERENCES IN TEXT

Public Law 87–483, referred to in subsecs. (b) and (c)(2)(A), is Pub. L. 87–483, June 13, 1962, 76 Stat. 96, which was classified principally to subchapter XXX (§ 615ii et seq.) of chapter 12 of this title, and was omitted from the Code. Section 11 of Pub. L. 87–483 was classified to § 615ss of this title prior to being omitted from the Code.

TERMINATION DATE

Section to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note under section 620 of this title.

### § 620*o*. Definitions

As used in this chapter—

The terms ''Colorado River Basin'', ''Colorado River Compact'', ''Colorado River System'', ''Lee Ferry'', ''States of the Upper Division'', ''Upper Basin'', and ''domestic use'' shall have the meaning ascribed to them in article II of the Upper Colorado River Basin Compact;

The term ''States of the Upper Colorado River Basin'' shall mean the States of Arizona, Colorado, New Mexico, Utah, and Wyoming;

The term ''Upper Colorado River Basin'' shall have the same meaning as the term ''Upper Basin'';

The term ''Upper Colorado River Basin Compact'' shall mean that certain compact executed on October 11, 1948 by commissioners representing the States of Arizona, Colorado, New Mexico, Utah, and Wyoming, and consented to by the Congress of the United States of America by Act of April 6, 1949 (63 Stat. 31);

The term ''Rio Grande Compact'' shall mean that certain compact executed on March 18, 1938, by commissioners representing the States of Colorado, New Mexico, and Texas and consented to by the Congress of the United States of America by Act of May 31, 1939 (53 Stat. 785);

The term ''Treaty with the United Mexican States'' shall mean that certain treaty between the United States of America and the United Mexican States, signed at Washington, District of Columbia, February 3, 1944, relating to the utilization of the waters of the Colorado River and other rivers, as amended and supplemented by the protocol dated November 14, 1944, and the understandings recited in the Senate resolution of April 18, 1945, advising and consenting to ratification thereof.

(Apr. 11, 1956, ch. 203, § 17, formerly § 16, 70 Stat. 111; temporarily renumbered § 17, Pub. L. 111–11, title X, § 10401(b)(1), Mar. 30, 2009, 123 Stat. 1371.)

RENUMBERING OF SECTION

*For termination of renumbering of this section by section 10701(e)(2) of Pub. L. 111–11, see Termination Date of 2009 Amendment note below.*

REFERENCES IN TEXT

Act of April 6, 1949, referred to in text, is act Apr. 6, 1949, ch. 48, 63 Stat. 31, which is not classified to the Code.

Act of May 31, 1939, referred to in text, is act May 31, 1939, ch. 155, 53 Stat. 785, which is not classified to the Code.

TERMINATION DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–11 to be null and void on issuance of a court order terminating a certain Agreement and Contract between New Mexico, the Navajo Nation, and the United States, see section 10701(e)(2) of Pub. L. 111–11, set out as an Agreement note under section 620 of this title.

## CHAPTER 13—FEDERAL LANDS INCLUDED IN STATE IRRIGATION DISTRICTS

Sec.
621. Subjection of lands in State irrigation district to State laws generally.
622. Cost of construction and maintenance of irrigation project as charge on land.
623. Map of district and plan of irrigation project; approval by Secretary.
624. Entry of approval on land records.
625. Release of unentered land from lien on noncompletion of irrigation project.
626. Enforcement of lien against entered but unpatented land.
627. Sale of unpatented and unentered land prohibited; suspension of entry.
628. Patents to entered but unpatented land.
629. Delivery of notices required by State law; right to hearing, appeal, etc.
630. Disposition by Government of proceeds of land sold.

### § 621. Subjection of lands in State irrigation district to State laws generally

When in any State of the United States under the irrigation district laws of said State there has, prior to August 11, 1916, been organized and created or shall thereafter be organized and created any irrigation district for the purpose of irrigating the lands situated within said irrigation district, and in which irrigation district so created or to be created there shall be included any of the public lands of the United States, such public lands so situated in said irrigation district, when subject to entry, and entered lands within said irrigation district, for which no final certificates have been issued, which may be designated by the Secretary of the Interior in the approval by him of the map and plat of an irrigation district as provided in section 623 of this title, are made and declared to be subject to all the provisions of the laws of the State in which such lands shall be situated relating to the organization, government, and regulation of

irrigation districts for the reclamation and irrigation of arid lands for agricultural purposes, to the same extent and in the same manner in which the lands of a like character held under private ownership are or may be subject to said laws: *Provided*, That the United States and all persons legally holding unpatented lands under entry made under the public land laws of the United States are accorded all the rights, privileges, benefits, and exemptions given by said State laws to persons holding lands of a like character under private ownership except as in this chapter otherwise provided: *Provided further*, That this chapter shall not apply to any irrigation district comprising a majority acreage of unentered land.

(Aug. 11, 1916, ch. 319, § 1, 39 Stat. 506.)

### § 622. Cost of construction and maintenance of irrigation project as charge on land

The cost of constructing, acquiring, purchasing, or maintaining the canals, ditches, reservoirs, reservoir sites, water, water right, rights-of-way, or other property incurred in connection with any irrigation project under said irrigation district laws shall be equitably apportioned among lands held under private ownership, lands legally covered by unpatented entries, and unentered public lands included in said irrigation district. Officially certified lists of the amounts of charges assessed against the smallest legal subdivision of said lands shall be furnished to the officer designated by the Secretary of the Interior of the land district within which the lands affected are located as soon as such charges are assessed; but nothing in this chapter shall be construed as creating any obligation against the United States to pay any of said charges, assessments, or debts incurred.

All charges legally assessed shall be a lien upon unentered lands and upon lands covered by unpatented entries included in said irrigation district.

(Aug. 11, 1916, ch. 319, § 2, 39 Stat. 507; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 623. Map of district and plan of irrigation project; approval by Secretary

No unentered lands and no entered lands for which no final certificates have been issued shall be subject to the lien or liens herein contemplated until there shall have been submitted by said irrigation district to the Secretary of the Interior, and approved by him, a map or plat of said district and sufficient detailed engineering data to demonstrate to the satisfaction of the Secretary of the Interior the sufficiency of the water supply and the feasibility of the project, and which shall explain the plan or mode of irrigation in those irrigation districts where the irrigation works have not been constructed, and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops, and which shall also show the source of water to be used for irrigation of land included in said district: *Provided*, That in those irrigation districts organized prior to August 11, 1916, and whose irrigation works had then been constructed and were then in operation as soon as a satisfactory map, plat, and plan shall have been approved by the Secretary of the Interior, as in this chapter provided, such entered and unentered lands shall be subject to all district taxes and assessments theretofore actually levied against the lands in said district and in the same manner in which lands of a like character held under private ownership are subject to liens and assessments.

(Aug. 11, 1916, ch. 319, § 3, 39 Stat. 507.)

CODIFICATION

Section is comprised of section 3 (less the first proviso) of act Aug. 11, 1916. The remainder of section 3 is classified to section 625 of this title.

### § 624. Entry of approval on land records

Upon the approval of the district map or plat as hereinbefore provided by the Secretary of the Interior the officer designated by the Secretary of the Interior will note said approval upon his records where any unentered or entered and unpatented lands are affected.

(Aug. 11, 1916, ch. 319, § 4, 39 Stat. 508; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred function of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 625. Release of unentered land from lien on noncompletion of irrigation project

The Secretary of the Interior may, upon the expiration of ten years from the date of his ap-

proval of said map and plan of any irrigation district, release from the lien authorized by this chapter any unentered land or lands upon which final certificate has not issued, for which irrigation works have not been constructed and water of such district made available for the land.

(Aug. 11, 1916, ch. 319, § 3, 39 Stat. 508.)

CODIFICATION

Section is comprised of the first proviso in section 3 of act Aug. 11, 1916. The remainder of section 3 is classified to section 623 of this title.

### § 626. Enforcement of lien against entered but unpatented land

The lien described in section 622 of this title upon land covered by unpatented entries may be enforced upon said unpatented lands by the sale thereof in the same manner and under the same proceeding whereby said assessments are enforced against lands held under private ownership: *Provided*, That in the case of entered unpatented lands the title or interest which such irrigation district may convey by tax sale, tax deed, or as a result of any tax proceeding shall be subject to the following conditions and limitations: If such unpatented land be withdrawn under the Act of June 17, 1902 (32 Stat. 388), known as the reclamation Act, or subject to the provisions of said Act, then the interest which the district may convey by such tax proceedings or tax deed shall be subject to a prior lien reserved to the United States for all the unpaid charges authorized by the said Act, but the holder of such tax deed or tax title resulting from such district tax shall be entitled to all the rights and privileges in the land included in such tax title or tax deed of an assignee under the provisions of section 441 of this title, and upon submission to the United States land office of the district in which the land is located of satisfactory proof of such tax title, the name of the holder thereof shall be indorsed upon the records of such land office as entitled to the rights of one holding a complete and valid assignment under section 441 of this title and such person may at any time thereafter receive patent upon submitting satisfactory proof of the reclamation and irrigation required by Act June 17, 1902, and Acts amendatory thereto, and making the payments required by said Acts.

(Aug. 11, 1916, ch. 319, § 2, 39 Stat. 507.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 627. Sale of unpatented and unentered land prohibited; suspension of entry

No public lands which were unentered at the time any tax or assessment was levied against same by such irrigation district shall be sold for such taxes or assessments, but such tax or assessment shall be and continue a lien upon such lands, and not more than one hundred and sixty acres of such land shall be entered by any one person; and when such lands shall be applied for, after said approval by the Secretary of the Interior, under the homestead or desert-land laws of the United States the application shall be suspended for a period of thirty days to enable the applicant to present a certificate from the proper district or county officer showing that no unpaid district charges are due and delinquent against said land.

(Aug. 11, 1916, ch. 319, § 5, 39 Stat. 508.)

REFERENCES IN TEXT

The desert-land laws of the United States, referred to in text, are classified generally to chapter 9 (§ 321 et seq.) of this title.

### § 628. Patents to entered but unpatented land

Any entered but unpatented lands not subject to the reclamation Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), sold in the manner and for the purposes mentioned in this chapter may be patented to the purchaser thereof or his assignee at any time after the expiration of the period of redemption allowed by law under which it may have been sold (no redemption having been made) upon the payment to the officer designated by the Secretary of the Interior of the local land office of the minimum price of $1.25 per acre, or such other price as may be fixed by law for such lands, together with the usual fees and commissions charged in entries of like lands under the homestead laws, and upon a satisfactory showing that the irrigation works have been constructed and that water of the district is available for such land; but the purchaser or his assignee shall, at the time of application for patent, have the qualification of a homestead entryman or desert-land entryman, and not more than one hundred and sixty acres of said land shall be patented to any one purchaser under the provisions of this chapter.

These limitations shall not apply to sales to irrigation districts, but shall apply to purchasers from such irrigation districts of such land bid in by said district.

Unless the purchaser or his assignee of such lands shall, within ninety days after the time for redemption has expired, pay to the proper officer designated by the Secretary of the Interior all fees and commissions and the purchase price to which the United States shall be entitled as provided for in this chapter, any person having the qualification of a homestead entryman or a desert-land entryman may pay to the proper officer designated by the Secretary of the Interior for not more than one hundred and sixty acres of said lands, for which payment has not been made, the unpaid purchase price, fees, and commissions to which the United States may be entitled; and upon satisfactory proof that he has paid to the purchaser at the tax sale, or his assignee or to the proper officer of the district for such purchaser or for the district, as the case may be, the sum for which the land was sold at

sale for irrigation-district charges or bid in by the district at such sale, and in addition thereto the interest and penalties on the amount bid at the rate allowed by law, shall be subrogated to the rights of such purchaser to receive patent for said land.

In any case where any tract of entered land lying within such approved irrigation district shall become vacant by relinquishment or cancellation for any cause, any subsequent applicant therefor shall be required, in addition to the qualifications and requirements otherwise provided, to furnish satisfactory proof by certificate from the proper district or county officer that he has paid all charges then due to the district upon said land and also has paid to the proper district or county officer for the holder or holders of any tax certificates, delinquency certificates, or other proper evidence of purchase at tax sale the amount for which the said land was sold at tax sale, together with the interest and penalties thereon provided by law.

(Aug. 11, 1916, ch. 319, §6, 39 Stat. 508; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

The reclamation Act of June seventeenth, nineteen hundred and two, 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Previously, references to ''receiver'' were changed to ''register'' by acts Oct. 28, 1921, and Mar. 3, 1925.

### §629. Delivery of notices required by State law; right to hearing, appeal, etc.

All notices required by the irrigation district laws mentioned in this chapter shall, as soon as such notices are issued, be delivered to the officer designated by the Secretary of the Interior of the proper land office in cases where unpatented lands are affected thereby, and to the entryman whose unpatented lands are included therein, and the United States and such entryman shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership, and all entrymen shall be given the same rights of redemption as are given to the owners of lands held in private ownership.

(Aug. 11, 1916, ch. 319, §7, 39 Stat. 509; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer designated by the Secretary of the Interior'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Previously, reference to ''receiver'' was changed to ''register'' by acts Oct. 28, 1921 and Mar. 3, 1925.

### §630. Disposition by Government of proceeds of land sold

All moneys derived by the United States from the sale of public lands referred to in this chapter shall be paid into such funds and applied as provided by law for the disposal of the proceeds from the sale of public lands.

(Aug. 11, 1916, ch. 319, §8, 39 Stat. 509.)

## CHAPTER 14—GRANTS OF DESERT LANDS TO STATES FOR RECLAMATION

Sec.
641. Grant of desert land to States authorized.
641a. Issuance of quitclaim deeds; patents for segregated lands.
641b. Filing of application for quitclaim deeds.
641c. Requirements of application for quitclaim deed.
641d. Effective date of quitclaim; administration of lands relinquished by States.
642. Liens for expenses of reclamation.
643. Repealed.
644. Preference right to entryman under State laws.
645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation.
646. Grant extended to New Mexico and Arizona.
647. Grant extended to desert lands within part of former Ute Indian Reservation in Colorado.
648. Omitted.

### §641. Grant of desert land to States authorized

To aid the public-land States in the reclamation of the desert lands therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President is, as of August 18, 1894, authorized and empowered, upon proper application of the State to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined by the Act approved March 3, 1877, and the Act amendatory thereof, approved March 3, 1891, binding the United States to donate, grant, and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed, occupied, and not less than twenty acres of each one hundred and sixty acre tract cultivated by actual settlers, as thoroughly as is required of citizens who may enter under the desert-land law within ten years from the date of approval by the Secretary of the Interior of the State's application for the segregation of such lands; and if actual

construction of reclamation works is not begun within three years after the segregation of the lands or within such further period not exceeding three years, as shall be allowed by the Secretary of the Interior, the said Secretary of the Interior, in his discretion, may restore such lands to the public domain; and if the State fails, within ten years from the date of such segregation, to cause the whole or any part of the lands so segregated to be so irrigated and reclaimed, the Secretary of the Interior may, in his discretion, continue said segregation for a period not exceeding five years, or may, in his discretion, restore such lands not irrigated and reclaimed to the public domain upon the expiration of the ten-year period or of any extension thereof.

Before the application of any State is allowed or any contract or agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation.

Any State contracting under this section is authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation, and settlement.

As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed, and occupied by actual settlers, patents shall be issued to the State or its assigns for said lands so reclaimed and settled: *Provided*, That said States shall not sell or dispose of more than one hundred and sixty acres of said lands to any one person, and any surplus of money derived by any State from the sale of said lands in excess of the cost of their reclamation, shall be held as a trust fund for and be applied to the reclamation of other desert lands in such State.

(Aug. 18, 1894, ch. 301, § 4, 28 Stat. 422; Mar. 3, 1901, ch. 853, § 3, 31 Stat. 1188; Jan. 6, 1921, ch. 10, 41 Stat. 1085; Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.)

REFERENCES IN TEXT

Act approved March 3, 1877, referred to in text, is act Mar. 3, 1877, ch. 107, 19 Stat. 377, as amended, popularly known as the Desert Lands Act, which is classified generally to sections 321 to 323, 325, 327 to 329 of this title. For complete classification of this Act to the Code, see Tables.

The Act amendatory thereof, approved March 3, 1891, referred to in text, is act Mar. 3, 1891, ch. 561, 26 Stat. 1095, which enacted sections 161, 162, 165, 173, 174, 185, 202, 212, 321, 323, 325, 327 to 329, 663, 671, 687a–6, 718, 728, 732, 893, 946 to 949, 989, 1165, 1166, 1181, and 1197 of this title, sections 471, 607, 611, 611a, and 613 of Title 16, Conservation, section 495 of Title 25, Indians, and sections 30, 36, 44, 45, 48, and 52 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1976—Pub. L. 94–579 struck out provisions authorizing Secretary of the Interior to promulgate regulations for reservation of lands by the State.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section is effective on and after Oct. 21, 1976.

SHORT TITLE

This section is popularly known as the ''Carey Act''.

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.

### § 641a. Issuance of quitclaim deeds; patents for segregated lands

The Secretary of the Interior shall issue quitclaim deeds to the public-land States for all lands patented to such States under section 641 of this title. He shall also issue a patent for all unpatented public lands within each State now segregated under that section for which the State issued final certificates or other evidence of right prior to June 1, 1953, or as to which equitable claims to the lands accrued prior to that date (by reason of cultivation or improvement of the lands for agricultural development purposes) for conveyance to the holders of such rights or claims, or to their heirs, successors, or assigns.

(Aug. 13, 1954, ch. 727, § 1, 68 Stat. 703.)

### § 641b. Filing of application for quitclaim deeds

The Secretary shall not issue such quitclaim deeds or patents to any State, however, unless that State files a proper application for the transfer of these lands within three years after August 13, 1954.

(Aug. 13, 1954, ch. 727, § 2, 68 Stat. 703.)

### § 641c. Requirements of application for quitclaim deed

The application must include a list of all the lands which the State certifies should be transferred under the terms of section 641a of this title, the basis for the certification of each tract included, and a quitclaim or relinquishment of all right, title, and interest in the State to any and all other lands under section 641 of this title. Such quitclaim or relinquishment by the State shall not affect any private rights obtained from the State prior to August 13, 1954.

(Aug. 13, 1954, ch. 727, § 3, 68 Stat. 703.)

### § 641d. Effective date of quitclaim; administration of lands relinquished by States

The quitclaim or relinquishment of all right, title, and interest by the State to any lands under sections 641a to 641d of this title shall not be effective until the Secretary has transferred the lands applied for under section 641a of this

title. The Secretary shall provide for the administration and disposition under the public-land laws of the lands quitclaimed or relinquished by the States pursuant to sections 641a to 641d of this title.

(Aug. 13, 1954, ch. 727, § 4, 68 Stat. 703.)

### § 642. Liens for expenses of reclamation

Under any law heretofore or hereafter enacted by any State, providing for the reclamation of arid lands, in pursuance and acceptance of the terms of the grant made in section 641 of this title, a lien or liens is authorized to be created by the State to which such lands are granted and by no other authority whatever, and when created shall be valid on and against the separate legal subdivisions of land reclaimed, for the actual cost and necessary expenses of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such State without regard to settlement or cultivation: *Provided*, That in no event, in no contingency, and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liability, in whole or in part.

(June 11, 1896, ch. 420, 29 Stat. 434.)

### § 643. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Mar. 15, 1910, ch. 96, 36 Stat. 237, authorized temporary withdrawal from settlement or entry of desert lands.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 644. Preference right to entryman under State laws

The Secretary of the Interior, when restoring to the public domain lands that have been segregated to a State under sections 641, 642 and 643[1] of this title is authorized, in his discretion and under such rules and regulations as he may establish to allow for not exceeding ninety days to any entryman under section 641 of this title a preference right of entry under applicable land laws of any of such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant under section 641 of this title and upon which such person had established actual bona fide residence or had made substantial and permanent improvements: *Provided*, That each entryman shall be entitled to a credit as residence upon his new homestead entry allowed hereunder of the time that he has actually lived upon the claim as a bona fide resident thereof.

(Feb. 14, 1920, ch. 74, 41 Stat. 407.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

### § 645. Additional arid lands available to Colorado, Idaho, Nevada, and Wyoming for reclamation

An additional one million acres of arid lands within each of the States of Colorado, Idaho, Nevada, and Wyoming is made available and subject to the terms of section 641 of this title, and the States of Colorado, Nevada, Idaho, and Wyoming are allowed under the provisions of said section said additional area or so much thereof as may be necessary for the purposes and under the provisions of said section.

(May 27, 1908, ch. 200, 35 Stat. 347; Mar. 4, 1911, ch. 285, 36 Stat. 1417; Aug. 21, 1911, No. 7, 37 Stat. 38.)

### § 646. Grant extended to New Mexico and Arizona

All the provisions of sections 641, 642 and 643[1] of this title are extended to the States of New Mexico and Arizona, and the said States upon complying with the provisions of said sections shall be entitled to have and receive all of the benefits therein conferred upon the States.

(Feb. 18, 1909, ch. 150, § 1, 35 Stat. 638.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792.

EFFECTIVE DATE

Section 2 of act Feb. 18, 1909, provided: ''That this Act [enacting this section] shall be in full force and effect from and after its passage.''

### § 647. Grant extended to desert lands within part of former Ute Indian Reservation in Colorado

The provisions of sections 641, 642 and 643[1] of this title are extended over and shall apply to the desert lands within the limits of all that portion of the former Ute Indian Reservation, not included in any national forest, in the State of Colorado, described and embraced in the Act entitled ''An Act relating to lands in Colorado lately occupied by the Uncompahgre and White River Ute Indians,'' approved July 28, 1882: *Provided*, That before a patent shall issue for any of the lands aforesaid under the terms of the said sections the State of Colorado shall pay into the Treasury of the United States the sum of $1.25 per acre for the lands so patented, and the money so paid shall be subject to the provisions of section 3 of the Act of June 15, 1880, entitled ''An Act to accept and ratify the agreements submitted by the confederated bands of Ute In-

[1] See References in Text note below.

[1] See References in Text note below.

[1] See References in Text note below.

dians in Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriation for carrying out same.''

No lands shall be included in any tract to be segregated under the provisions of this section on which the United States Government has valuable improvements, or which have been reserved for any Indian schools or farm purposes.

(Feb. 24, 1909, ch. 178, §§1, 2, 35 Stat. 644, 645.)

REFERENCES IN TEXT

Section 643 of this title, referred to in text, was repealed by Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792.

Act approved July 28, 1882, referred to in text, is act July 28, 1882, ch. 357, 22 Stat. 178, which is not classified to the Code.

Section 3 of the Act of June 15, 1880, referred to in text, is section 3 of act June 15, 1880, ch. 223, 21 Stat. 199, which is not classified to the Code.

### § 648. Omitted

CODIFICATION

Section, acts Feb. 26, 1917, ch. 124, 39 Stat. 942; Mar. 3, 1919, ch. 114, 40 Stat. 1322; June 5, 1920, ch. 249, 41 Stat. 987, provided for extension of time of segregation and reclamation in Oregon segregation lists for period of not exceeding ten years and not beyond January 12, 1929.

## CHAPTER 15—APPROPRIATION OF WATERS; RESERVOIR SITES

Sec.
661. Appropriation of waters on public lands; rights of way for canals and ditches.
662. Reservation of reservoir sites generally.
663. Restriction of sites to inclusion of necessary lands.
664. Rights of way over reservoir sites generally.
665. Rights of way over reservoir sites for wagon road, railroad, or other highway.
666. Suits for adjudication of water rights.

### § 661. Appropriation of waters on public lands; rights of way for canals and ditches

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by this section.

(R.S. §§2339, 2340.)

AMENDMENT OF SECTION

*Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, provided that effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System this section is amended to read as follows:*

*Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same.*

*All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights as may have been acquired under or recognized by this section.*

CODIFICATION

R.S. §2339 derived from act July 26, 1866, ch. 262, §9, 14 Stat. 253.

R.S. §2340 derived from act July 9, 1870, ch. 235, §17, 16 Stat. 218.

This section is also classified to sections 51 and 52 of Title 30, Mineral Lands and Mining.

SAVINGS PROVISION

Amendment by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, 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.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 662. Reservation of reservoir sites generally

Sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, located or selected prior to August 30, 1890, shall remain segregated and reserved from entry, or settlement, until otherwise provided by law, and reservoir sites thereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof.

(Oct. 2, 1888, ch. 1069, 25 Stat. 526, 527; Aug. 30, 1890, ch. 837, §1, 26 Stat. 391; Pub. L. 94–579, title VII, §704(a), Oct. 21, 1976, 90 Stat. 2792.)

CODIFICATION

Section is based on provisions contained in acts Oct. 2, 1888, and Aug. 30, 1890, affected by act Oct. 21, 1976.

AMENDMENTS

1976—Pub. L. 94–579 struck out provision authorizing the President, in his discretion, to open by proclamation any portion or all of the lands reserved by this section to settlement under the homestead laws.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 663. Restriction of sites to inclusion of necessary lands

Reservoir sites located or selected and to be located and selected shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs; excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs.

(Mar. 3, 1891, ch. 561, § 17, 26 Stat. 1101.)

### § 664. Rights of way over reservoir sites generally

All reservoir sites reserved or to be reserved shall be open to use and occupation under sections 946 to 949[1] of this title, and any State is authorized to improve and occupy such reservoir sites to the same extent as an individual or private corporation, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That the charges for water coming in whole or part from reservoir sites used or occupied under the provisions of this section shall always be subject to the control and regulation of the respective States and Territories in which such reservoirs are in whole or part situate.

(Feb. 26, 1897, ch. 335, 29 Stat. 599.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 946 to 949 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

SAVINGS PROVISION

Repeal by Pub. L. 94–579, insofar as applicable to the issuance of rights-of-way, 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.

### § 665. Rights of way over reservoir sites for wagon road, railroad, or other highway

In the form provided by existing law, the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any reservoir site when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, under, and through the public lands and lands in the National Forest Systems.*

[1] See References in Text note below.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 666. Suits for adjudication of water rights

#### (a) Joinder of United States as defendant; costs

Consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit. The United States, when a party to any such suit, shall (1) be deemed to have waived any right to plead that the State laws are inapplicable or that the United States is not amenable thereto by reason of its sovereignty, and (2) shall be subject to the judgments, orders, and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances: *Provided*, That no judgment for costs shall be entered against the United States in any such suit.

#### (b) Service of summons

Summons or other process in any such suit shall be served upon the Attorney General or his designated representative.

#### (c) Joinder in suits involving use of interstate streams by State

Nothing in this section shall be construed as authorizing the joinder of the United States in any suit or controversy in the Supreme Court of the United States involving the right of States to the use of the water of any interstate stream.

(July 10, 1952, ch. 651, title II, § 208(a)–(c), 66 Stat. 560.)

CODIFICATION

Section is comprised of subsections (a) to (c) of section 208 of act July 10, 1952. Subsection (d) of section 208 is omitted as it referred to the limitation on the use of any appropriation in act July 10, 1952 to prepare or prosecute the suit in the U.S. District Court for the Southern Division of California, by the *United States v. Fallbrook Public Utility Corporation*.

## CHAPTER 16—SALE AND DISPOSAL OF PUBLIC LANDS

Sec.
671 to 687b–5. Repealed.
687c. Alaskan land leases for fur farming; citizenship; acreage limitation; period; terms and conditions; laws applicable to mineral resources; reservations.
687c–1. Execution of provisions of section 687c; authority of Secretary of the Interior.
688 to 700. Repealed.

### § 671. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act Mar. 3, 1891, ch. 561, § 9, 26 Stat. 1099, prohibited sale of public lands except under certain conditions.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 672. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2353, required public lands, offered at public sale, to be offered in half quarter sections.

### §§ 673 to 676. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 673, R.S. § 2354, authorized private sales of all public lands in entire, half, etc., sections.

Section 674, R.S. § 2355; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, required a memorandum in connection with application for purchase of public land at private sale.

Section 675, act May 18, 1898, ch. 344, § 2, 30 Stat. 418, set forth requirements for private sale of public lands in Missouri.

Section 676, R.S. § 2365; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized sale of public land to highest bidder at the private sale of land.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 677. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2356, related to credit on sales and payment of price.

### §§ 678 to 682. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 678, R.S. § 2357, related to acreage price for public lands offered for sale.

Section 679, act June 15, 1880, ch. 227, § 3, 21 Stat. 238, related to acreage price for alternate sections of railroad lands offered for sale.

Section 680, act June 15, 1880, ch. 227, § 4, 21 Stat. 238, excepted former section 679 of this title from applicability to mineral lands of the United States.

Section 681, act Mar. 2, 1889, ch. 381, § 4, 25 Stat. 854, related to price of forfeited railroad lands and adjacent lands.

Section 682, act Mar. 1, 1907, ch. 2286, 34 Stat. 1052, authorized sale of public lands for cemetery purposes and set forth the price for such acreage.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 682a to 682e. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section 682a, acts June 1, 1938, ch. 317, § 1, 52 Stat. 609; July 14, 1945, ch. 298, 59 Stat. 467; June 8, 1954, ch. 270, 68 Stat. 239, related to sale or lease of small tracts for residence, recreation, business, or community site purposes.

Section 682b, act June 1, 1938, ch. 317, § 2, as added June 8, 1954, ch. 270, 68 Stat. 239, related to minimum selling price and reservation of mineral rights.

Section 682c, act June 1, 1938, ch. 317, § 3, as added June 8, 1954, ch. 270, 68 Stat. 239, related to qualifications of lessees and purchasers.

Section 682d, act June 1, 1938, ch. 317, § 4, as added June 8, 1954, ch. 270, 68 Stat. 240, related to sales or leases to employees of Department of the Interior stationed in Alaska.

Section 682e, act June 1, 1938, ch. 317, § 5, as added June 8, 1954, ch. 270, 68 Stat. 240, related to application of sections 682a to 682e of this title to certain revested grant lands in Oregon and conditions on lease of such lands.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### §§ 683 to 687. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 683, R.S. § 2364, related to minimum price for sale of public lands.

Section 684, R.S. § 2358, related to authorization of President to cause public lands to be offered for sale.

Section 685, R.S. § 2359, related to advertising of sale of public lands.

Section 686, act Jan. 12, 1877, ch. 18, § 2, 19 Stat. 221, related to publication of all executive proclamations relating to sale of public lands.

Section 687, R.S. § 2360, related to duration of sale of public lands.

### §§ 687a to 687a–3. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 687a, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Mar. 3, 1927, ch. 323, 44 Stat. 1364; May 26, 1934, ch. 357, 48 Stat. 809; Aug. 23, 1958, Pub. L. 85–725, § 3, 72 Stat. 730, related to purchase rights, price and limits of acreage, and access to waterfront.

Section 687a–1, act Apr. 29, 1950, ch. 137, § 5, 64 Stat. 95, related to filing of notice of claim, and effect of failure to file.

Section 687a–2, acts May 14, 1898, ch. 299, § 10, 30 Stat. 413; Aug. 3, 1955, ch. 496, § 2, 69 Stat. 444, related to entry on lands abutting on navigable waters.

Section 687a–3, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, related to multiple claimants of the same tract.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 687a–4. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, authorized reservation of landing places along water front for natives of Alaska. Section was formerly classified to section 464 of Title 48, Territories and Insular Possessions.

Section was additionally repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789, effective on and after the tenth anniversary of the date of approval of this Act, Oct. 21, 1976.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 687a–5 to 687b–4. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 687a–5, act May 14, 1898, ch. 299, § 10, 30 Stat. 413, excepted certain islands.

Section 687a–6, acts Mar. 3, 1891, ch. 561, § 13, 26 Stat. 1100; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to surveys and deposits for covered lands.

Section 687b, act Aug. 30, 1949, ch. 521, § 1, 63 Stat. 679, related to Alaskan lands subject to sale for industrial, commercial, and housing construction purposes.

Section 687b–1, act Aug. 30, 1949, ch. 521, § 2, 63 Stat. 679, related to minimum selling price.

Section 687b–2, acts Aug. 30, 1949, ch. 521, § 3, 63 Stat. 679; Oct. 21, 1976, Pub. L. 94–579, title VII, § 703(d), 90 Stat. 2791, related to liability for damages caused by mining and preservation of existing rights.

Section 687b–3, act Aug. 30, 1949, ch. 521, § 4, 63 Stat. 679, related to inapplicability of certain provisions.

Section 687b–4, act Aug. 30, 1949, ch. 521, § 5, 63 Stat. 679, related to promulgation of rules and regulations.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 687b–5. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, Pub. L. 88–66, July 19, 1963, 77 Stat. 80, required applicability of equitable principles by Secretary of the Interior upon submission of proof of compliance with land use requirements after prescribed period. Section was formerly classified to section 364f of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 687c. Alaskan land leases for fur farming; citizenship; acreage limitation; period; terms and conditions; laws applicable to mineral resources; reservations

The Secretary of the Interior, in order to encourage and promote development of production of furs in the Territory of Alaska, is authorized to lease to corporations organized under the laws of the United States, or of any state or Territory thereof, citizens of the United States, or associations of such citizens, public lands of the United States in the Territory of Alaska suitable for fur farming, in areas not exceeding six hundred and forty acres, and for periods not exceeding ten years, upon such terms and conditions as he may by general regulations prescribe: *Provided*, That where leases are given hereunder for islands or lands within the same, such lease may, in the discretion of the Secretary of the Interior, be for an area not to exceed thirty square miles: *Provided further*, That nothing herein contained shall prevent the prospecting, locating, development, entering, leasing, or patenting of the mineral resources of any lands so leased under laws applicable thereto: *And provided further*, That this section shall not be held nor construed to apply to the Pribilof Islands, declared a special reservation by section 646[1] of title 16: *And provided further*, That any permit or lease issued under this section shall reserve to the Secretary of the Interior the right to permit the use and occupation of parts of said leased areas for the taking, preparing, manufacturing, or storing of fish or fish products, or the utilization of the lands for purposes of trade or business, to the extent and in the manner provided by existing laws or laws which may be enacted after July 3, 1926.

(July 3, 1926, ch. 745, § 1, 44 Stat. 821.)

REFERENCES IN TEXT

Section 646 of title 16, referred to in text, was repealed by act Feb. 26, 1944, ch. 65, § 18, 58 Stat. 104. See sections 1161, 1162, and 1167 of Title 16, Conservation.

CODIFICATION

Section was formerly classified to section 360 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

### § 687c–1. Execution of provisions of section 687c; authority of Secretary of the Interior

The Secretary of the Interior is authorized to perform any and all acts, and to make such rules and regulations as may be necessary and proper, for the purpose of carrying the provisions of section 687c of this title into effect, including provisions for the forfeiture of any lease for failure to stock the same with fur-bearing animals

[1] See References in Text note below.

within a period of one year from the date of the lease, or in the event of the devotion of the lease area primarily to any purpose other than the rearing of such fur-bearing animals.

(July 3, 1926, ch. 745, § 2, 44 Stat. 822.)

CODIFICATION

Section was formerly classified to section 361 of Title 48, Territories and Insular Possessions.

### §§ 688 to 700. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 688, R.S. § 2361; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized issuance of multiple certificates in cases of two or more purchasers of same section of land.

Section 689, R.S. § 2362, authorized refund of purchase money by the Secretary of the Interior.

Section 690, R.S. § 2363, related to sources of funds for repayment.

Section 691, R.S. § 2368, authorized purchase of lands located in good faith by claims arising under treaty of Sept. 30, 1854.

Section 692, R.S. § 2366, authorized receipt of foreign coins in payment for purchases.

Section 693, R.S. § 2369; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to mistakes in entry of public lands purchased at private sale.

Section 694, R.S. § 2370; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to mistakes in issuance of patents for lands.

Section 695, R.S. § 2371, related to applicability of sections 693 and 694 of this title for mistakes in location of warrants.

Section 696, R.S. § 2374, prohibited agreements to pay premiums to purchasers of public lands.

Section 697, R.S. § 2372; acts Feb. 24, 1909, ch. 181, 35 Stat. 645; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; May 21, 1926, ch. 353, 44 Stat. 591; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to errors in entry, selection or location of public lands.

Section 698, R.S. § 2375, authorized recovery of premiums paid under section 696 of this title.

Section 699, R.S. § 2376, authorized discovery of agreements authorizing payments under section 696 of this title.

Section 700, act Mar. 2, 1889, ch. 381, § 1, 25 Stat. 854, authorized private entry onto public lands of United States only in Missouri.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## CHAPTER 17—RESERVATION AND SALE OF TOWN SITES ON PUBLIC LANDS

Sec.
711 to 736. Repealed.
737. Unrestricted deeds for townsite lands held by Alaska natives.
738. Repealed.

### §§ 711 to 715. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 711, R.S. § 2380, authorized reservation of town sites by President.

Section 712, R.S. § 2381; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized reserved lands to be surveyed in urban and suburban lots and their appraisement and sale.

Section 713, R.S. § 2382; acts Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Aug. 24, 1954, ch. 904, § 1, 68 Stat. 792, related to procedure for establishment of town or city sites.

Section 714, R.S. § 2383, authorized extension of limits of towns established on unsurveyed lands.

Section 715, R.S. § 2384; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized Secretary of the Interior to survey and plat cities or towns on the public domain where interested parties fail to file transcript maps in twelve months after establishment.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 716. Repealed. Aug. 24, 1954, ch. 904, § 2, 68 Stat. 792

Section, R.S. § 2385, related to size of lots or plat varying from general rule.

### §§ 717 to 728. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 717, R.S. § 2386, related to title to town lots subject to mineral rights.

Section 718, R.S. § 2387; acts Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097, authorized entry by town authorities of town sites in trust for occupants, under such regulations as may be prescribed by legislative authority of State or Territory in which the same may be situated.

Section 719, R.S. § 2388; acts Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to procedure for entry by town authorities of town sites in trust for occupants.

Section 720, R.S. § 2389, authorized entry by town authorities of town sites in proportion to number of inhabitants.

Section 721, R.S. § 2391, made void acts of trustees not in conformity to regulations alluded to in section 718 of this title.

Section 722, R.S. § 2392, provided that no title was to be acquired under sections 711 to 715 and 717 to 721 of this title to any mine of gold, silver, cinnabar, or copper or to any valid mining claim or possession held under existing laws.

Section 723, R.S. § 2393, provided that provisions of sections 711 to 715 and 717 to 724 of this title were not to apply to military reservations or to other reservations made by the United States prior to Mar. 2, 1867, nor to reservations for lighthouses, customhouses, mints, or other public purposes, whether held under reservation through the Land Office by title derived from the Crown of Spain or otherwise.

Section 724, R.S. § 2394, authorized inhabitants of any town on public land to avail themselves of provisions of sections 718 to 720 of this title and required that they pay, in addition to minimum price of lands so entered, all costs of surveying and platting.

Section 725, act Mar. 3, 1877, ch. 113, § 1, 19 Stat. 392, related to requirements as to quantity of land excluded from homestead entry in towns upon the public lands of the United States.

Section 726, acts Mar. 3, 1877, ch. 113, § 3, 19 Stat. 392; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized settlement of excess lands where a town-site exceeds maximum limits.

Section 727, act Mar. 3, 1877, ch. 113, § 4, 19 Stat. 392, authorized additional entries by town authorities in cases where a town site is less than maximum authorized size.

Section 728, act Mar. 3, 1891, ch. 561, § 16, 26 Stat. 1101, related to town-site entries by incorporated towns and cities on the mineral lands of United States.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 729. Repealed. June 14, 1926, ch. 578, § 5, as added June 4, 1954, ch. 263, 68 Stat. 175

Section, act Sept. 30, 1890, ch. 1121, 26 Stat. 502, authorized, with limitations, the sale of unreserved public lands to incorporated cities and towns for cemetery and park purposes. See section 869 et seq. of this title.

Act Oct. 17, 1940, ch. 890, § 2, 54 Stat. 1192, formerly set out as a note under this section, declared this section to be inapplicable to the Territory of Alaska, and was repealed by act June 14, 1926, ch. 578, § 5, as added by act June 4, 1954, ch. 263, 68 Stat. 175. See section 869 et seq. of this title.

### §§ 730 to 736. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 730, act July 9, 1914, ch. 138, 38 Stat. 454, provided for issuance of patents to transferees of town lots purchased at public sale and transferred prior to October 11, 1911, where patent had not been issued to original purchaser who had since died.

Section 731, act Feb. 9, 1903, ch. 531, 32 Stat. 820, extended town-site laws to ceded Indian lands in the State of Minnesota.

Section 732, act Mar. 3, 1891, ch. 561, § 11, 26 Stat. 1099, related to town-site entries in Alaska. Section was formerly classified to section 355 of Title 48, Territories and Insular Possessions.

Section 733, act May 25, 1926, ch. 379, § 1, 44 Stat. 629, related to Indian or Eskimo lands in Alaska set aside on survey of town site. Section was formerly classified to section 355a of Title 48.

Section 734, act May 25, 1926, ch. 379, § 2, 44 Stat. 630, related to extension of streets or alleys across Indian or Eskimo land in Alaska. Section was formerly classified to section 355b of Title 48.

Section 735, act May 25, 1926, ch. 379, § 3, 44 Stat. 630, related to a survey of nonmineral public lands in Alaska into lots and blocks. Section was formerly classified to section 355c of Title 48.

Section 736, act May 25, 1926, ch. 379, § 4, 44 Stat. 630, related to authority of Secretary to prescribe regulations for sections 733 to 735 of this title. Section was formerly classified to section 355d of Title 48.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

JUNEAU INDIAN VILLAGE TOWNSITE

Pub. L. 88–34, May 29, 1963, 77 Stat. 52, which provided that sections 733 to 736 of this title were extended and made applicable to all lands of the Juneau Indian Village of Alaska, including uplands and filled in tidelands occupied on May 29, 1963, was repealed by section 703(a) of Pub. L. 94–579.

### § 737. Unrestricted deeds for townsite lands held by Alaska natives

The trustee or trustees to whom a patent has been issued for a townsite surveyed pursuant to section 732 or 735[1] of this title, upon a finding by the Secretary of the Interior or his authorized representative that any Alaska native who claims and occupies a tract of land within such townsite is competent to manage his own affairs and has petitioned the Secretary or his authorized representative for an unrestricted deed, or[2] shall issue to such native an unrestricted deed, and thereafter all restrictions as to sale, encumbrance, or taxation of said lands shall be removed, but said land shall not be liable to the satisfaction of any debt, except obligations owed the Federal Government, contracted prior to the issuing of such deed.

(Feb. 26, 1948, ch. 72, 62 Stat. 35.)

REFERENCES IN TEXT

Sections 732 and 735 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789.

CODIFICATION

Section was formerly classified to section 355e of Title 48, Territories and Insular Possessions.

### § 738. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act July 24, 1947, ch. 305, 61 Stat. 414, related to promulgation of zoning laws in Alaska. Section was formerly classified to section 364 of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## CHAPTER 18—SURVEY OF PUBLIC LANDS

Sec.
751. Rules of survey.
751a. Survey system extended to Alaska.
751b. Surveys in Nome and Fairbanks districts.
752. Boundaries and contents of public lands; how ascertained.
753. Lines of division of half quarter sections; how run.
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757. Cost of survey of private land claims to be reported and paid.

[1] See References in Text note below.

[2] So in original.

Sec.
758. Delivery of patent contingent on refund of cost of survey.
759. Survey for and by settlers in township.
760. Deposit for expenses deemed an appropriation.
761. Repayment of excess of deposits to cover cost of surveys of mineral lands.
762. Deposits made by settlers for surveys to go in part payment of lands.
763. Deposits in Louisiana applicable to resurveys.
764, 765. Repealed.
766. Geological surveys, extension of public surveys, expenses of subdividing.
767 to 769. Repealed.
770. Rectangular mode of survey; departure from.
771. Repealed.
772. Resurveys or retracements to mark boundaries of undisposed lands.
773. Resurveys or retracements of township lines, etc.
774. Protection of surveyor by marshal.
775. Omitted.

## § 751. Rules of survey

The public lands shall be divided by north and south lines run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of an Indian reservation, or of tracts of land surveyed or patented prior to May 18, 1796, or the course of navigable rivers, may render this impracticable; and in that case this rule must be departed from no further than such particular circumstances require.

Second. The corners of the townships must be marked with progressive numbers from the beginning; each distance of a mile between such corners must be also distinctly marked with marks different from those of the corners.

Third. The township shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running parallel lines through the same from east to west and from south to north at the distance of one mile from each other, and marking corners at the distance of each half mile. The sections shall be numbered, respectively, beginning with the number one in the northeast section and proceeding west and east alternately through the township with progressive numbers, until the thirty-six be completed.

Fourth. The deputy surveyors, respectively, shall cause to be marked on a tree near each corner established in the manner described, and within the section, the number of such section, and over it the number of the township within which such section may be; and the deputy surveyors shall carefully note, in their respective field books, the names of the corner trees marked and the numbers so made.

Fifth. Where the exterior lines of the townships which may be subdivided into sections or half-sections exceed, or do not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half-sections in such township, according as the error may be in running the lines from east to west, or from north to south; the sections and half-sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity.

Sixth. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen and one-half feet each, subdivided into twenty-five equal links; and the chain shall be adjusted to a standard to be kept for that purpose.

Seventh. Every surveyor shall note in his field book the true situations of all mines, salt licks, salt springs, and mill-seats which come to his knowledge; all watercourses over which the line he runs may pass; and also the quality of the lands.

Eighth. These field books shall be returned to the Secretary of the Interior or such officer as he may designate, who shall cause therefrom a description of the whole lands surveyed to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships and fractional parts of townships contained in the lands, describing the subdivisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; and a copy thereof shall be kept open at the office of the Secretary of the Interior or of such agency as he may designate for public information, and other copies shall be sent to the places of the sale, and to the Bureau of Land Management.

(R.S. § 2395; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Apr. 29, 1950, ch. 134, § 1, 64 Stat. 92.)

### Codification

R.S. § 2395 derived from acts May 18, 1796, ch. 29, § 2, 1 Stat. 465; May 10, 1800, ch. 55, § 3, 2 Stat. 73; Mar. 3, 1877, ch. 105, 19 Stat. 348.

### Amendments

1950—Par. Third. Act Apr. 29, 1950, struck out provision that sections 1 mile square in townships be established by running survey lines 2 miles apart.

### Transfer of Functions

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

In par. ''Eighth'', reference to ''United States Supervisor of Surveys,'' changed to ''Secretary of the Interior or such officer as he may designate,''; ''office of the Field Surveying Service'' changed to ''office of the Secretary of the Interior or of such agency as he may designate,''; and ''General Land Office'' changed to ''Bureau of Land Management'', on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### Land Information Study; Report to Congress

Pub. L. 100–409, § 8, Aug. 20, 1988, 102 Stat. 1091, provided that:

''(a) Study.—The Secretary of the Interior shall conduct an assessment of the need for and cost and benefits associated with improvements in the existing methods of land surveying and mapping and of collect-

ing, storing, retrieving, disseminating, and using information about Federal and other lands.

''(b) CONSULTATION.—In conducting the assessment required by this section, the Secretary of the Interior shall consult with the following—

''(1) the Secretary of Agriculture;

''(2) the Secretary of Commerce;

''(3) the Director of the National Science Foundation;

''(4) representatives of State and local governments;

''(5) representatives of private sector surveying and mapping science.

''(c) REPORT.—No later than one year after the day of enactment of this Act [Aug. 20, 1988], the Secretary of the Interior shall report to the Congress concerning the results of the assessment required by this section.

''(d) TOPICS.—In the report required by subsection (c), the Secretary of the Interior shall include a discussion and evaluation of the following:

''(1) relevant recommendations made by the National Academy of Sciences (National Research Council) on the concept of a multipurpose cadastre from time to time prior to the date of enactment of this Act [Aug. 20, 1988];

''(2) ongoing activities concerning development of an overall reference frame for land and resource information, including but not limited to a geodetic network, a series of current and accurate large-scale maps, cadastral overlay maps, unique identifying numbers linking specific land parcels to a common index of all land records in United States cadastral systems, and a series of land data files;

''(3) ways to achieve better definition of the roles of Federal and other governmental agencies and the private sector in dealing with land information systems;

''(4) ways to improve the coordination of Federal land information activities; and

''(5) model standards developed by the Secretary for compatible multipurpose land information systems for use by Federal, State and local governmental agencies, the public, and the private sector.

''(e) RECOMMENDATIONS.—The report required by subsection (c) may also include such recommendations for legislation as the Secretary of the Interior considers necessary or desirable.''

### § 751a. Survey system extended to Alaska

The system of public land surveys is extended to the Territory of Alaska.

(Mar. 3, 1899, ch. 424, 30 Stat. 1098.)

CODIFICATION

Section was formerly classified to section 351 of Title 48, Territories and Insular Possessions.

Section is from the Sundry Civil Appropriation Act, 1900.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

### § 751b. Surveys in Nome and Fairbanks districts

The Secretary of the Interior or such officer as he may designate, shall furnish the land offices at Nome and Fairbanks a sufficient quantity of numbers to be used in the different classes of official surveys that may be made in the Nome and Fairbanks land districts to meet the requirements thereof, and upon application by any person desiring to have an official survey made such officers as the Secretary of the Interior may designate shall furnish a number or numbers for such survey or surveys, together with an order directing a qualified deputy surveyor to make the same, and such application, order, and the fee required to be paid shall be transmitted to the Secretary of the Interior or such officer as he may designate: *Provided*, That all surveys thus made shall be approved by the Secretary of the Interior or such officer as he may designate.

(Mar. 2, 1907, ch. 2537, § 4, 34 Stat. 1232; Mar. 3, 1925, ch. 462, 43 Stat. 1144; Oct. 9, 1942, ch. 584, § 2, 56 Stat. 779; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was formerly classified to section 352 of Title 48, Territories and Insular Possessions.

REPEALS

Act Oct. 9, 1942, ch. 584, § 2, 56 Stat. 779, cited as a credit to this section, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 651.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Functions of Supervisor of Surveys and Registers transferred to Secretary of the Interior or those officers as he may designate by section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

References to ''receivers'' changed to ''registers'' by act Oct. 9, 1942, which abolished office of receiver and transferred functions to an employee to be designated by Secretary and to be performed under title ''register''.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 752. Boundaries and contents of public lands; how ascertained

The boundaries and contents of the several sections, half-sections, and quarter-sections of the public lands shall be ascertained in conformity with the following principles:

First. All the corners marked in the surveys, returned by the Secretary of the Interior or such agency as he may designate, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half- and quarter-sections, not marked on the surveys, shall be placed as nearly as possible equidistant from two corners which stand on the same line.

Second. The boundary lines, actually run and marked in the surveys returned by the Secretary of the Interior or such agency as he may designate, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines as returned, shall be held and considered as the true length thereof. And the boundary lines which have not been actually run and marked shall be ascertained, by running straight lines from the established corners to the opposite corresponding corners; but in those

portions of the fractional townships where no such opposite corresponding corners have been or can be fixed, the boundary lines shall be ascertained by running from the established corners due north and south or east and west lines, as the case may be, to the watercourse, Indian boundary line, or other external boundary of such fractional township.

Third. Each section or subdivision of section, the contents whereof have been returned by the Secretary of the Interior or such agency as he may designate, shall be held and considered as containing the exact quantity expressed in such return; and the half sections and quarter sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one-half or the one-fourth part, respectively, of the returned contents of the section of which they may make part.

(R.S. § 2396; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2396 derived from act Feb. 11, 1805, ch. 14, § 2, 2 Stat. 313.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

In pars. ''First'', ''Second'' and ''Third'', reference to ''Field Surveying Service'' changed to ''Secretary of the Interior or such agency as he may designate'', on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 753. Lines of division of half quarter sections; how run

In every case of the division of a quarter section the line for the division thereof shall run north and south, and the corners and contents of half quarter sections which may thereafter be sold, shall be ascertained in the manner and on the principles directed and prescribed by section 752 of this title, and fractional sections containing one hundred and sixty acres or upwards shall in like manner as nearly as practicable be subdivided into half quarter sections under such rules and regulations as may be prescribed by the Secretary of the Interior, and in every case of a division of a half quarter section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter sections, which may thereafter be sold, shall be ascertained as nearly as may be, in the manner, and on the principles, directed and prescribed by the section preceding; and fractional sections containing fewer or more than one hundred and sixty acres shall in like manner, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Secretary of the Interior.

(R.S. § 2397.)

CODIFICATION

R.S. § 2397 derived from acts Apr. 24, 1820, ch. 51, § 1, 3 Stat. 566; Apr. 5, 1832, ch. 65, 4 Stat. 503.

### §§ 754 to 756. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 754, R.S. § 2398, related to binding effect of contracts for surveys.

Section 755, R.S. § 2399; acts Oct. 1, 1890, ch. 1262, 26 Stat. 650; Aug. 15, 1894, ch. 288, 28 Stat. 285; Apr. 26, 1902, ch. 592, 32 Stat. 120; Mar. 3, 1925, ch. 462, 43 Stat. 1144, related to various surveying instructions which were to be deemed part of every contract for survey.

Section 756, R.S. § 2400; act Mar. 3, 1875, ch. 130, § 1, 18 Stat. 384, related to establishment of prices of surveys.

### § 757. Cost of survey of private land claims to be reported and paid

An accurate account shall be kept by the Secretary of the Interior or such officer as he may designate of the cost of surveying and platting every private land claim to be reported to the Bureau of Land Management with the map of such claim; and a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant or by any other party.

(July 31, 1876, ch. 246, 19 Stat. 121; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Field Surveying Service'' changed to ''Secretary of the Interior or such agency as he may designate'' and ''General Land Office'' changed to ''Bureau of Land Management'', on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 758. Delivery of patent contingent on refund of cost of survey

In all cases of the survey of private land claims the cost of the same shall be refunded to the Treasury by the owner before the delivery of the patent.

(Mar. 3, 1885, ch. 360, 23 Stat. 499.)

### § 759. Survey for and by settlers in township

When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of such agency as the Secretary of the Interior

may designate and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for such agency, under such instructions as may be given by the Secretary of the Interior or such officer as he may designate, and in accordance with law, to survey such township or such public lands owned by said grantees of the Government, and make return therefor to the general and proper local land office: *Provided*, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys.

(R.S. § 2401; Aug. 20, 1894, ch. 302, § 1, 28 Stat. 423; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2401 derived from act May 30, 1862, ch. 86, § 10, 12 Stat. 410.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to "the Field Surveying Service" changed to "such agency as the Secretary of the Interior may designate" and "such agency,", respectively; and "Commissioner of the General Land Office" changed to "Secretary of the Interior or such officer as he may designate", on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 760. Deposit for expenses deemed an appropriation

The deposit of money in a proper United States depository, under the provisions of section 759 of this title, shall be deemed an appropriation of the sums so deposited for the objects contemplated by said section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

(R.S. § 2402.)

CODIFICATION

R.S. § 2402 derived from Res. July 1, 1864, No. 60, 13 Stat. 414.

### § 761. Repayment of excess of deposits to cover cost of surveys of mineral lands

The Secretary of the Treasury is authorized and directed to pay, out of the moneys heretofore or hereafter covered into the Treasury from deposits made by individuals to cover cost of work performed and to be performed in the offices of such agency as the Secretary of the Interior may designate in connection with the survey of mineral lands, any excess in the amount deposited over and above the actual cost of the work performed, including all expenses incident thereto for which the deposits were severally made or the whole of any unused deposit; and such sums, as the several cases may be, shall be deemed to be annually and permanently appropriated for that purpose. Such repayments shall be made to the person or persons who made the several deposits, or to his or their legal representatives, after the completion or abandonment of the work for which the deposits were made, and upon an account certified by the office of such agency of the district in which the mineral land surveyed, or sought to be surveyed, is situated and approved by the Secretary of the Interior or such officer as he may designate.

(Feb. 24, 1909, ch. 180, 35 Stat. 645; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

References to "the United States Field Surveying Service" and "the Field Surveying Service" changed to "such agency as the Secretary of the Interior may designate", and "the office of such agency", respectively; and "Commissioner of the General Land Office" changed to "Secretary of the Interior or such officer as he may designate", on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 762. Deposits made by settlers for surveys to go in part payment of lands

Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section 759 of this title, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered under the laws thereof.

(R.S. § 2403; Apr. 27, 1876, ch. 84, 19 Stat. 38; Mar. 3, 1879, ch. 170, 20 Stat. 352; Aug. 20, 1894, ch. 302, § 2, 28 Stat. 423.)

CODIFICATION

R.S. § 2403 derived from acts Mar. 3, 1871, ch. 127, 16 Stat. 581; Apr. 27, 1876, ch. 84, 19 Stat. 38.

### § 763. Deposits in Louisiana applicable to resurveys

Such sums as have been or may be deposited for surveys in Louisiana by actual settlers,

under sections 759, 760, and 762 of this title, may be, in whole or in part, employed in making such resurveys as may be necessary in the discretion of the Secretary of the Interior or such officer as he may designate.

(Aug. 7, 1882, ch. 433, 22 Stat. 327; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### §§ 764, 765. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section 764, R.S. § 2404, related to augmented rates for surveys of forest lands in Oregon.

Section 765, R.S. § 2405, related to augmented rates for surveys of forest lands in California and Washington.

### § 766. Geological surveys, extension of public surveys, expenses of subdividing

There shall be no further geological survey by the Government, unless authorized by law. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands.

(R.S. § 2406.)

CODIFICATION

R.S. § 2406 derived from acts July 21, 1852, ch. 66, § 1, 10 Stat. 15, 21; July 9, 1870, ch. 235, § 16, 16 Stat. 218.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 767. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2407, authorized a departure from ordinary method in surveying land on a watercourse.

### §§ 768, 769. Repealed. Apr. 29, 1950, ch. 134, § 4, 64 Stat. 93

Section 768, R.S. § 2408, authorized Secretary of the Interior to vary lines of subdivisions from a rectangular form to suit the circumstances of the country in extending the surveys of public lands in Nevada. See section 770 of this title.

Section 769, R.S. § 2409, authorized Secretary of the Interior to continue geodetic method of survey in Oregon and California.

### § 770. Rectangular mode of survey; departure from

The Secretary of the Interior may, by regulation, provide that departures may be made from the system of rectangular surveys whenever it is not feasible or economical to extend the rectangular surveys in the regular manner or whenever such departure would promote the beneficial use of lands.

(R.S. § 2410; Apr. 29, 1950, ch. 134, § 2, 64 Stat. 93.)

CODIFICATION

R.S. § 2410 derived from act Mar. 3, 1853, ch. 145, § 4, 10 Stat. 245.

AMENDMENTS

1950—Act Apr. 29, 1950, struck out limitation that, when there are departures from the rectangular surveys, the lands shall not be surveyed into less than 160 acres or subdivided into less than 40 acres, and by substituting a general provision for those departures.

### § 771. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, R.S. § 2411, related to compensation for surveying by the day instead of by the mile in Oregon and California.

### § 772. Resurveys or retracements to mark boundaries of undisposed lands

The Secretary of the Interior may, as of March 3, 1909, in his discretion cause to be made, as he may deem wise under the rectangular system on that date provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: *Provided*, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement.

(Mar. 3, 1909, ch. 271, 35 Stat. 845; June 25, 1910, No. 40, 36 Stat. 884; Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792.)

AMENDMENTS

1976—Pub. L. 94–579 struck out proviso authorizing that not more than 20 per centum of relevant appropriations be used for resurveys and retracements under this section.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 705(a) of Pub. L. 94–579 provided that the amendment made by that section 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.

### § 773. Resurveys or retracements of township lines, etc.

Upon the application of the owners of three-fourths of the privately owned lands in any township covered by public-land surveys, more than 50 per centum of the area of which townships is privately owned, accompanied by a deposit with the Secretary of the Interior, or such officer as he may designate, of the proportionate estimated cost, inclusive of the necessary work, of the resurvey or retracement of all the privately owned lands in said township, the Sec-

retary, or such officer as he may designate, shall be authorized in his discretion to cause to be made a resurvey or retracement of the lines of said township and to set permanent corners and monuments in accordance with the laws and regulations governing surveys and resurveys of public lands. The sum so deposited shall be held by the Secretary of the Interior or such officer as he may designate, and may be expended in payment of the cost of such survey, including field and office work, and any excess over the cost of such survey and the expenses incident thereto shall be repaid pro rata to the persons making said deposits or their legal representatives. The proportionate cost of the field and office work for the resurvey or retracement of any public lands in such township shall be paid from the current appropriation for the survey and resurvey of public lands, in addition to the portion of such appropriation otherwise allowed by law for resurveys and retracements. Similar resurveys and retracements may be made on the application, accompanied by the requisite deposit, of any court of competent jurisdiction, the returns of such resurvey or retracement to be submitted to the court. The Secretary of the Interior is authorized to make all necessary rules and regulations to carry this section into full force and effect.

(Sept. 21, 1918, ch. 175, 40 Stat. 965; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Supervisor of Surveys'' changed to the ''Secretary of the Interior, or such officer as he may designate,''; ''Commissioner of the General Land Office subject to the supervisory authority of the Secretary of the Interior,'' changed to ''Secretary, or such officer as he may designate,''; and reference to ''Supervisor of Surveys or commissioner'' changed to ''Secretary of the Interior or such officer as he may designate,'', all on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 774. Protection of surveyor by marshal

Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for the President to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

(R.S. § 2413.)

CODIFICATION

R.S. § 2413 derived from act May 29, 1830, ch. 163, § 2, 4 Stat. 417.

### § 775. Omitted

CODIFICATION

Section, act May 13, 1960, Pub. L. 86–455, title I, 74 Stat. 106, related to contributions for costs of management of lands and for surveying federally controlled lands, was from the Department of the Interior and Related Agencies Appropriation Act, 1961, and was not repeated in subsequent appropriation acts. Similar provisions were contained in the following prior appropriation acts:

June 23, 1959, Pub. L. 86–60, title I, 72 Stat. 93.
June 4, 1958, Pub. L. 85–439, title I, 72 Stat. 156.
July 1, 1957, Pub. L. 85–77, title I, 71 Stat. 258.
June 13, 1956, ch. 380, title I, 70 Stat. 258.
June 16, 1955, ch. 147, title I, 69 Stat. 142.
July 1, 1954, ch. 446, title I, 68 Stat. 362.
July 31, 1953, ch. 298, title I, 67 Stat. 263.
July 9, 1952, ch. 597, title I, 66 Stat. 447.

## CHAPTER 19—BOUNTY LANDS

REPEALS; RIGHTS SAVED; AUTHORIZATION TO PURCHASE AND CANCEL UNSATISFIED WARRANTS; PROCEDURE; LIMITATIONS; RIGHTS OF TRANSFEREES; FUNDS FOR PAYMENTS

Pub. L. 87–558, July 27, 1962, 76 Stat. 246, provided: ''That sections 457, 473, and 2414–2446, inclusive, of the Revised Statutes, as amended [sections 782, 785, 791 to 808, and 821 to 835 of this title], and the Act of December 13, 1894 (28 Stat. 594) [section 783 of this title], are hereby repealed. Repeal of said laws shall not affect the rights of holders of warrants described in section 2 of this Act, until such rights are extinguished in accordance with said section, to have their warrants receivable in payment or part payment for lands under the Act of December 13, 1894, supra, to assign their warrants pursuant to sections 2414 and 2444 of the Revised Statutes, and to secure a new warrant in lieu of a warrant lost or destroyed pursuant to section 2441 of the Revised Statutes.

''SEC. 2. The Secretary of the Interior is hereby authorized and directed to purchase at the rate of $1.25 per acre from the holders thereof and to cancel all valid unsatisfied military bounty land warrants which were issued pursuant to the laws repealed by section 1 of this Act and which are recorded with the Secretary pursuant to, and under the terms and conditions of, the Act of August 5, 1955 (69 Stat. 534) [set out as a note to section 274 of this title], and the regulations issued thereunder. The Secretary will send his offer to purchase by registered mail to the post office address of the holder of record with the Secretary as of the time the offer is made and will require the holder to surrender the warrant as a condition of payment therefor. If the holder of a warrant, within one year from and after receipt of an offer to purchase from the Secretary, shall fail to surrender his warrant and accept payment therefor as provided for in this section, the warrant shall not thereafter be accepted by the Secretary of the Interior for further recordation under the Act of 1955, supra, or as a basis for the acquisition of lands, or for payment under this section: *Provided*, That if within the one year after receipt of an offer to purchase, the warrant is transferred the transferee shall have the remainder of the one-year period or a period of six months, whichever is the longer, within which to surrender his warrant and accept payment.

''SEC. 3. Payments under section 2 of this Act shall be made out of any appropriated funds available to the Secretary of the Interior for expenditure by him.''

### § 781. Repealed. June 29, 1936, ch. 867, title III, § 303, 49 Stat. 2033

Section, R.S. § 4744; acts July 25, 1882, ch. 349, § 2, 22 Stat. 175; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to investigation of frauds in connection with bounty-land claims.

### §§ 782, 783. Repealed. Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246

Section 782, R.S. § 2442; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, required Secretary of the Interior to prescribe regulations to carry the provisions of section 829 of this title into effect.

Section 783, act Dec. 13, 1894, ch. 3, 28 Stat. 594, related to bounty warrants and indemnity certificate receivable in payment for lands.

### § 784. Repealed. Pub. L. 85–56, title XXII, § 2202(1), June 17, 1957, 71 Stat. 162

Section, R.S. § 471; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, required Administrator of Veterans' Affairs to perform those duties in execution of bounty-land laws as the President prescribed.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 85–56 effective Jan. 1, 1958.

### § 785. Repealed. Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246

Section, R.S. § 4748; act July 3, 1930, ch. 863, §§ 1, 2, 46 Stat. 1016, related to appointment of a person to sign name of Administrator to warrants for bounty lands.

### § 786. Repealed. Pub. L. 85–56, title XXII, § 2202(1), June 17, 1957, 71 Stat. 162

Section, R.S. § 4748; act July 3, 1930, ch. 863, §§ 1, 2, 46 Stat. 1016, related to furnishing of free instruction forms for persons filing claims for land bounty warrants.

EFFECTIVE DATE OF REPEAL

Repeal by Pub. L. 85–56 effective Jan. 1, 1958.

### § 787. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section, R.S. §§ 4746, 4766; acts July 7, 1898, ch. 578, 30 Stat. 718; Aug. 17, 1912, ch. 301, § 1, 37 Stat. 312; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to false certification of documents. See section 289 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal by act June 25, 1948, effective Sept. 1, 1948.

### §§ 791 to 808. Repealed. Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246

Section 791, R.S. § 2418, related to issuance of certificates or land bounty warrants or, at option of Treasury, script for certain amounts for service in the War of 1812 or in any of Indian wars since 1790 and prior to Mar. 3, 1850, and in Mexican War.

Section 792, R.S. § 2419, related to entry into service after commencement of Mexican War.

Section 793, R.S. § 2420, related to militia, volunteers, and State troops in service between June 18, 1812, and Mar. 22, 1852.

Section 794, R.S. § 2421, prohibited benefits under sections 791 to 793 of this title if the person received, or was entitled to receive, any military land bounty under any Act passed prior to Mar. 22, 1852.

Section 795, R.S. § 2422, added any period of captivity to actual service in computing service, for purposes of sections 791 to 793 of this title.

Section 796, R.S. § 2424, related to rights of widows of persons entitled to benefits.

Section 797, R.S. § 2428, related to widows and children of persons entitled to benefits under section 800 of this title.

Section 798, R.S. § 2429, related to effect of subsequent marriage of widow.

Section 799, R.S. § 2430, related to age of minors within intent of section 797 of this title.

Section 800, R.S. § 2425, related to equalization of bounties at 160 acres.

Section 801, R.S. § 2426, enumerated classes of persons whose right was dependent on length of service.

Section 802, R.S. § 2427, enumerated classes of persons whose right was independent of length of service.

Section 803, R.S. § 2431; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to parol proof of military service.

Section 804, R.S. § 2432; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to admissibility of prior evidence of service for additional allowances.

Section 805, R.S. § 2433, related to allowance for travel time in computing length of service.

Section 806, R.S. § 2434, extended provisions of bounty land laws to Indians.

Section 807, R.S. § 2435; act July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to evidence of right of pension being admissible to show right to bounty.

Section 808, R.S. § 2438, denied deserters a right to land bounties.

### §§ 821 to 835. Repealed. Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246

Section 821, R.S. § 2414, related to assignment of warrants and locations.

For savings provisions affecting this section, see Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246, set out as a note preceding section 781 of this title.

Section 822, R.S. § 2436, related to effect of certain written instruments affecting title to warrants prior to issuance of warrants.

Section 823, R.S. § 2415, related to location of warrants, and to the payment of any excess value over minimum price.

Section 824, R.S. § 2416, related to entry under warrants for services in Revolutionary War and in War of 1812.

Section 825, R.S. § 2417, related to time for location of warrants for services in Revolutionary War and War of 1812.

Section 826, R.S. § 2437, related to location of warrants free of expense.

Section 827, R.S. § 2423, related to issuance of a patent on return of a warrant.

Section 828, R.S. § 2439, permitted issuance of a patent notwithstanding loss of a warrant.

Section 829, R.S. § 2441, related to assignment of a lost warrant.

Section 830, R.S. § 2440, related to loss of or failure to issue a certificate of honorable discharge.

Section 831, R.S. § 2443, related to mode of issuing patents to heirs of soldiers entitled to warrants.

Section 832, R.S. § 2444; act July 3, 1930, ch. 863, § 1, 46 Stat. 1016, related to death of claimant after establishing right to a warrant but prior to its issuance.

For savings provisions affecting this section, see Pub. L. 87–558, § 1, July 27, 1962, 76 Stat. 246, set out as a note preceding section 781 of this title.

Section 833, R.S. § 2445, related to right of legal representatives to file proofs for warrants.

Section 834, R.S. § 2446, related to relocation of warrants in case of error.

Section 835, R.S. § 457, related to issuance and recording of warrants.

### § 841. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862

Section, act May 21, 1872, ch. 178, 17 Stat. 137, related to offense and punishment of claim agent, attorney or other person for withholding military land bounty warrant. See section 290 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 1, 1948, see section 20 of act June 25, 1948.

### §§ 842 to 844. Repealed. June 17, 1957, Pub. L. 85–56, title XXII, § 2202(1), 71 Stat. 162

Section 842, R.S. § 4785; acts July 4, 1884, ch. 181, § 3, 23 Stat. 99; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related

to compensation of agent or attorney for services in prosecuting claim for bounty land.

Section 843, R.S. § 5485, related to punishment of agents or attorneys who contract for, demand, or receive greater compensation than $25 provided for in section 842 of this title.

Section 844, R.S. § 4786; acts July 4, 1884, ch. 181, § 4, 23 Stat. 99; July 3, 1930, ch. 863, § 2, 46 Stat. 1016, related to filing of fee agreement and limitation on fee of agent or attorney concerning bounty land claim.

Sections 842, 843 and 844 were based on provisions of R.S. §§ 4785, 5485, and 4786, respectively, which related to bounty lands. Provisions of R.S. §§ 4785, 5485, and 4786 which related to pensions were previously classified to sections 111, 112 and 114 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and were repealed by Pub. L. 85–56, title XXII, § 2202(1), June 17, 1957, 71 Stat. 162.

## CHAPTER 20—RESERVATIONS AND GRANTS TO STATES FOR PUBLIC PURPOSES

Sec.
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Sec.
873. Lands granted for erecting public buildings; purpose of grant.

### § 851. Deficiencies in grants to State by reason of settlements, etc., on designated sections generally

Where settlements with a view to preemption or homestead have been, or shall hereafter be made, before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the claims of such settlers; and if such sections or either of them have been or shall be granted, reserved, or pledged for the use of schools or colleges in the State in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State, in lieu of such as may be thus taken by preemption or homestead settlers. And other lands of equal acreage are also hereby appropriated and granted and may be selected, in accordance with the provisions of section 852 of this title, by said State where sections sixteen or thirty-six are, before title could pass to the State, included within any Indian, military, or other reservation, or are, before title could pass to the State, otherwise disposed of by the United States: *Provided*, That the selection of any lands under this section in lieu of sections granted or reserved to a State shall be a waiver by the State of its right to the granted or reserved sections. And other lands of equal acreage are also appropriated and granted, and may be selected, in accordance with the provisions of section 852 of this title, by said State to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State shall be entitled to select indemnity lands to the extent of section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged; but such selections may not be made within the boundaries of said reservation: *Provided, however*, That nothing in this section contained shall prevent any State from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then taking the sections sixteen and thirty-six in place therein.

(R.S. § 2275; Feb. 28, 1891, ch. 384, 26 Stat. 796; Pub. L. 85–771, § 1, Aug. 27, 1958, 72 Stat. 928; Pub. L. 89–470, § 1, June 24, 1966, 80 Stat. 220.)

CODIFICATION

R.S. § 2275 derived from acts Feb. 26, 1859, ch. 58, 11 Stat. 385; June 22, 1874, ch. 422, 18 Stat. 202.

AMENDMENTS

1966—Pub. L. 89–470 struck out "or Territory" after "State" in eight places and substituted "before title

could pass to the State'' for ''prior to survey'' in two places.

1958—Pub. L. 85–771 inserted ''in accordance with the provisions of section 852 of this title'' and ''prior to survey'', wherever appearing; substituted ''That the selection of any lands under this section in lieu of sections granted or reserved to a State or Territory shall be a waiver by the State or Territory of its right to the granted or reserved sections.'' for ''Where any State is entitled to said sections 16 and 36, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections.''; substituted ''section for section in lieu of sections therein which have been or shall be granted, reserved, or pledged'' for ''two sections for each of said townships, in lieu of sections 16 and 36 therein''; struck out from last extinguishment proviso ''but nothing in this proviso shall be construed as conferring any right not in this section existing prior to February 28, 1891'', and otherwise amended section generally.

## § 852. Selections to supply deficiencies of school lands

### (a) Restrictions

The lands appropriated by section 851 of this title shall be selected from any unappropriated, surveyed or unsurveyed public lands within the State where such losses or deficiencies occur subject to the following restrictions:

(1) No lands mineral in character may be selected by a State except to the extent that the selection is being made as indemnity for mineral lands lost to the State because of appropriation before title could pass to the State;

(2) No lands on a known geologic structure of a producing oil or gas field may be selected except to the extent that the selection is being made as indemnity for lands on such a structure lost to the State because of appropriation before title could pass to the State; and

(3) Land subject to a mineral lease or permit may be selected if none of the land subject to that lease or permit is in a producing or producible status, subject, however, to the restrictions and conditions of the preceding and following paragraphs of this subsection.

(4) If a selection is consummated as to a portion but not all of the lands subject to any mineral lease or permit, then, as to such portion and for so long only as such lease or permit or any lease issued pursuant to such permit shall remain in effect, there shall be automatically reserved to the United States the mineral or minerals for which the lease or permit was issued, together with such further rights as may be necessary for the full and complete enjoyment of all rights, privileges and benefits under or with respect to the lease or permit: *Provided, however*, That after approval of the selection the Secretary of the Interior shall determine what portion of any rents and royalties accruing thereafter which may be paid under the lease or permit is properly applicable to that portion of the land subject to the lease or permit selected by the State, the portion applicable being determined by applying to the sum of the rents and royalties the same ratio as that existing between the acreage selected by the State and the total acreage subject to the lease or permit; of the portion applicable to the selected land 90 per centum shall be paid to the State by the United States annually and 10 per centum shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5) If a selection is consummated as to all of the lands subject to any mineral lease or permit or if, where the selecting State has previously acquired title to a portion of the lands subject to a mineral lease or permit, a selection is consummated as to all of the remaining lands subject to that lease or permit, then and upon condition that the United States shall retain all rents and royalties theretofore paid and that the lessee or permittee shall have and may enjoy under and with respect to that lease or permit all the rights, privileges, and benefits which he would have had or might have enjoyed had the selection not been made and approved, the State shall succeed to all the rights of the United States under the lease or permit as to the mineral or minerals covered thereby, subject, however, to all obligations of the United States under and with respect to that lease or permit.

### (b) Adjustments

Where the selections are to compensate for deficiencies of school lands in fractional townships, such selections shall be made in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one-quarter section of land: *Provided*, That the States which are, or shall be entitled to both the sixteenth and thirty-sixth sections in place, shall have the right to select double the amounts named, to compensate for deficiencies of school land in fractional townships.

### (c) Preference rights for State

Notwithstanding the provisions of section 282[1] of this title on the revocation not later than 10 years after the date of approval of this Act, of any order of withdrawal, in whole or in part, the order or notice taking such action shall provide for a period of not less than six months before the date on which it otherwise becomes effective in which the State in which the lands are situated shall have a preferred right of application for selection under this section, subject to the requirements of existing law, except as against the prior existing valid settlement rights and preference rights conferred by existing law other than section 282[1] of this title, or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order

[1] See References in Text note below.

of withdrawal is made in order to assist in a Federal land program.

**(d) "Unappropriated public lands" defined; determination of mineral character of land**

(1) The term ''unappropriated public lands'' as used in this section shall include, without otherwise affecting the meaning thereof, lands withdrawn for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur, but otherwise subject to appropriation, location, selection, entry, or purchase under the nonmineral laws of the United States; lands withdrawn by Executive Order Numbered 5327, of April 15, 1930, if otherwise available for selection; and the retained or reserved interest of the United States in lands which have been disposed of with a reservation to the United States of all minerals or any specified mineral or minerals.

(2) The determination, for the purposes of this section of the mineral character of lands lost to a State shall be made as of the date of application for selection and upon the basis of the best evidence available at that time.

(R.S. § 2276; Feb. 28, 1891, ch. 384, 26 Stat. 797; Pub. L. 85–771, § 2, Aug. 27, 1958, 72 Stat. 928; Pub. L. 86–786, §§ 1, 2, Sept. 14, 1960, 74 Stat. 1024; Pub. L. 89–470, § 2, June 24, 1966, 80 Stat. 220.)

REFERENCES IN TEXT

Section 282 of this title, referred to in subsec. (c), was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

Date of approval of this Act, referred to in subsec. (c), probably means date of approval of Pub. L. 85–771, which was Aug. 27, 1958.

CODIFICATION

R.S. § 2276 derived from acts May 20, 1826, ch. 83, § 1, 4 Stat. 179; Feb. 26, 1859, ch. 58, 11 Stat. 385; June 22, 1874, ch. 422, 18 Stat. 202.

AMENDMENTS

1966—Pub. L. 89–470 struck out ''or Territory'' after ''State'' once in subsec. (a), twice in subsec. (a)(1), and once each in subsecs. (a)(2), (c), and (d)(2), and ''or Territories'' after ''States'' in subsec. (b); substituted ''before title could pass to the State'' for ''prior to survey'' in subsec. (a)(1) and (2); and inserted ''or unsurveyed'' after ''surveyed'' in subsec. (a).

1960—Subsec. (a). Pub. L. 86–786, § 1, substituted ''If none of the land subject to that lease or permit is in a producing or producible status, subject, however, to the restrictions and conditions of the preceding and following paragraphs of this subsection'' for '', but only if all of the lands subject to that lease or permit are selected and if none of the lands subject to that lease or permit are in a producing or producible status; where lands subject to a mineral lease or permit are selected, the State or Territory shall succeed to the position of the United States thereunder'', in par. (3), and added pars. (4) and (5).

Subsec. (d)(1). Pub. L. 86–786, § 2, included interest of United States in lands which have been disposed of with a reservation to United States of all minerals.

1958—Pub. L. 85–771 designated introductory clause as subsec. (a) and added restrictions (1) to (3) thereto; designated remainder as subsec. (b) and added subsecs. (c) and (d).

UNIVERSITY OF ALASKA; GRANTEE OF LANDS, IMPROVEMENTS, AND PERSONAL PROPERTY OF ALASKA AGRICULTURAL EXPERIMENT STATION

Pub. L. 102–415, § 9, Oct. 14, 1992, 106 Stat. 2114, provided that: ''Notwithstanding any other provision of law, the Secretary of the Interior shall convey to the University of Alaska, by quitclaim deed and without consideration, all the right, title, and interest of the United States in and to—

''(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres, including improvements on the lands, located at Palmer and Matanuska, Alaska; and

''(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements on the lands, located at Petersburg, Alaska, subject to the terms of—

''(A) the lease between the Forest Service and the University of Alaska dated March 29, 1978; and

''(B) the agreement between the parties listed in subparagraph (A) dated March 2, 1983.''

Pub. L. 89–620, Oct. 4, 1966, 80 Stat. 871, authorized the Secretary of Agriculture to convey by quitclaim deed and without consideration to the University of Alaska for public purposes all the right, title, and interest of the United States in and to the lands of the Alaska Agricultural Experiment Station, including improvements thereon, and such personal property as may be designated, located at Palmer and Matanuska, Alaska.

UNIVERSITY OF ALASKA; ADDITIONAL LAND GRANT FOR AGRICULTURAL COLLEGE AND SCHOOL OF MINES; CONDITIONS AND LIMITATION

Pub. L. 108–452, title I, § 105(a), Dec. 10, 2004, 118 Stat. 3579, provided that: ''As of January 1, 2003, the remaining State entitlement for the benefit of the University of Alaska under the Act of January 21, 1929 (45 Stat. 1091, chapter 92) [set out below], is 456 acres.''

Act Jan. 21, 1929, ch. 92, 45 Stat. 1091, as amended July 12, 1960, Pub. L. 86–620, 74 Stat. 408; Sept. 19, 1966, Pub. L. 89–588, 80 Stat. 811; Pub. L. 108–452, title I, § 105(b), Dec. 10, 2004, 118 Stat. 3579, provided: ''That in addition to the provision made by the Act of Congress approved March 4, 1915 (thirty-eighth Statutes at Large, page 1214 [classified to section 353 of Title 48, Territories and Insular Possessions, and provisions set out in the Site for Agricultural College and School of Mines note below], for the use and benefit of the Agricultural College and School of Mines, there is granted to the State of Alaska, for the exclusive use and benefit of the Agricultural College and School of Mines, one hundred thousand acres of vacant nonmineral surveyed unreserved public lands in the State of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the State, and subject to the following conditions and limitations:

''SEC. 2. That the college and school provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school.

''SEC. 3. (a) The State of Alaska (referred to in this Act as the 'State'), acting on behalf of, and with the approval of, the University of Alaska, may select—

''(1) any mineral interest (including an interest in oil or gas) in land located in the State, the unreserved portion of which is owned by the University of Alaska; or

''(2) any reversionary interest held by the United States in land located in the State, the unreserved portion of which is owned by the University of Alaska.

''(b) The total acreage of any parcel of land for which a partial interest is conveyed under subsection (a) shall be charged against the remaining entitlement of the State under this Act.

''(c) In taking title to a reversionary interest, the State, with the approval of the University of Alaska, waives all right to any future acreage credit if the reversion does not occur.

''SEC. 4. The Secretary may survey any vacant, unappropriated, and unreserved land in the State for purposes of allowing selections under this Act.

''SEC. 5. The authorized outstanding selections under this Act shall be not more than—

''(1) 125 percent of the remaining entitlement; plus

''(2) the number of acres of land that are in conflict with land owned by the University of Alaska, as identified in Native allotment applications on record with the Bureau of Land Management.''

UNIVERSITY OF ALASKA; SITE FOR AGRICULTURAL COLLEGE AND SCHOOL OF MINES

Section 2 of act Mar. 4, 1915, ch. 181, 38 Stat. 1215, provided: ''That section numbered 6 in township numbered one south of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered thirty-one, in township numbered one north of the Fairbanks base line and range numbered one west of the Fairbanks meridian; section numbered one, in township numbered one south of the Fairbanks base line and range numbered two west of the Fairbanks meridian; and section numbered thirty-six, in township numbered one north of the Fairbanks base line and range numbered two west of the Fairbanks meridian, are granted to the Territory of Alaska, but with the express condition that they shall be forever reserved and dedicated to use as a site for an agricultural college and school of mines: *Provided*, That nothing in this Act [classified to section 353 of Title 48, Territories and Insular Possessions, and set out in this note] shall be held to interfere with or destroy any legal claim of any person or corporation to any part of said lands under the homestead [law, chapter 7 of this title.] or other law for the disposal of the public lands acquired prior to the approval of this Act [Mar. 4, 1915]: *Provided further*, That so much of the said land as is now [Mar. 4, 1915] used by the Government of the United States as an agricultural experiment station may continue to be used for such purpose until abandoned for that use by an order of the President of the United States or by Act of Congress.''

### § 852a. Applications for unsurveyed lands; regulations; acreage requirements

The Secretary of the Interior may issue regulations governing applications for unsurveyed lands. If he establishes any minimum acreage requirements, they shall provide for selection of tracts of reasonable size, taking into consideration location, terrain, and adjacent land ownership and uses.

(Pub. L. 89–470, § 3, June 24, 1966, 80 Stat. 220.)

### § 852b. Survey of lands prior to transfer; time for survey; availability of funds; lands suitable for transfer

Prior to issuance of an instrument of transfer, lands must be surveyed. The Secretary of the Interior shall within five years, subject to the availability of funds, survey the exterior boundaries of lands approved as suitable for transfer to the State.

(Pub. L. 89–470, § 4, June 24, 1966, 80 Stat. 220.)

### § 853. Selections in Utah to supply deficiencies of school lands

All the provisions of sections 851 and 852 of this title, which provide for the selection of lands for educational purposes in lieu of those appropriated for other purposes, are made applicable to the State of Utah, and the grant of school lands to said State, including sections 2 and 32 in each township, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said sections, anything in the Act approved July 16, 1894, providing for the admission of said State into the Union, to the contrary notwithstanding.

Wherever the words ''sections 16 and 36'' occur in said sections, the same as applicable to the State of Utah shall read: ''sections 2, 16, 32, and 36'', and wherever the words ''sixteenth and thirty-sixth sections'' occur the same shall read: ''second, sixteenth, thirty-second, and thirty-sixth sections'', and wherever the words ''sections 16 or 36'' occur the same shall read: ''sections 2, 16, 32, or 36'', and wherever the words ''two sections'' occur the same shall read ''four sections.''

(May 3, 1902, ch. 683, §§ 1, 2, 32 Stat. 188, 189.)

REFERENCES IN TEXT

Act approved July 16, 1894, referred to in text, is act July 16, 1894, ch. 138, 28 Stat. 107. Provisions of such act relating to admission of Utah into the Union are not classified to the Code.

### § 854. Selections in New Mexico to supply deficiencies of school lands

All the provisions of sections 851 and 852 of this title are made applicable to New Mexico, and the grant of school lands to said State, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of such sections, anything in the Act of Congress approved June 21, 1898, making certain grants of land to the Territory of New Mexico, and for other purposes, to the contrary notwithstanding.

(Mar. 16, 1908, ch. 88, 35 Stat. 44.)

REFERENCES IN TEXT

Act of Congress approved June 21, 1898, referred to in text, is act June 21, 1898, ch. 489, 30 Stat. 484, which is not classified to the Code.

References to ''Territory'' of New Mexico were superseded by the admission of New Mexico into the Union by act June 30, 1910, ch. 310, 36 Stat. 557, and Res. Aug. 21, 1911, No. 8, 37 Stat. 39.

### § 855. Omitted

CODIFICATION

Section, act Mar. 2, 1923, ch. 184, 42 Stat. 1429, authorized Secretary of the Interior to convey certain lands to State of Wyoming which were to be selected in lieu of tract numbered 60, township 56, north, of range 69 west of the sixth principal meridian in that State.

### § 856. Selection of school lands on ceded Indian reservations

Any State or Territory entitled to indemnity school lands or entitled to select lands for educational purposes under law existing prior to March 2, 1895, may select such lands within the boundaries of any Indian reservation in such State or Territory from the surplus lands thereof, purchased by the United States after allotments have been made to the Indians of such reservation, and prior to the opening of such reservation to settlement.

(Mar. 2, 1895, ch. 188, § 1, 28 Stat. 899.)

### § 857. Grant to new States

There is granted, for purposes of internal improvement, to each new State admitted into the Union, after September 4, 1841, upon such admission, so much public land as, including the quantity that was granted to such State before its

admission and while under a territorial government, will make five hundred thousand acres.

The selections of lands, granted in this section, shall be made within the limits of each State so admitted into the Union, in such manner as the legislatures thereof, respectively, may direct; and such lands shall be located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, on any public land not reserved from sale by law of Congress or by proclamation of the President. The locations may be made at any time after the public lands in any such new State have been surveyed according to law.

(R.S. §§ 2378, 2379.)

CODIFICATION

R.S. §§ 2378, 2379 derived from act Sept. 4, 1841, ch. 16, § 8, 5 Stat. 455.

GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions in lieu of grant of land under this section (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

### § 858. Grants to counties for seats of justice

There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of preemption to one quarter section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

(R.S. § 2286.)

CODIFICATION

R.S. § 2286 derived from act May 26, 1824, ch. 169, § 1, 4 Stat. 50.

### § 859. Fee simple to pass in all grants

Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the list of such lands which have been or may hereafter be certified by the Secretary of the Interior or such officer as he may designate, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee simple of all the lands embraced in such lists that are of the character contemplated by such Act of Congress, and intended to be granted thereby, but where lands embraced in such lists are not of the character embraced by such Acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

(R.S. § 2449; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2449 derived from acts Aug. 3, 1854, ch. 201, 10 Stat. 346; Mar. 3, 1875, ch. 139, § 8, 18 Stat. 475.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior or such officer as he may designate" substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 860. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1029

Section, act Feb. 27, 1913, ch. 85, §§ 1–3, 37 Stat. 687, related to selection of phosphate or oil lands by State of Idaho under indemnity and other land grants. See sections 121 to 123 of Title 30, Mineral Lands and Mining.

### § 861. Preference right of selection granted certain Western States; bona fide settlers

The States of North Dakota, South Dakota, Montana, Idaho, and Washington shall have a preference right over any person or corporation to select lands subject to entry by said States by the Act of Congress approved February 22, 1889, for a period of sixty days after lands have been surveyed and duly declared to be subject to selection and entry under the general land laws of the United States.

Such preference right shall not accrue against bona fide homestead or preemption settlers on any of said lands at the date of filing of the plat of survey of any township in any local land office of said States.

(Mar. 3, 1893, ch. 208, 27 Stat. 592.)

REFERENCES IN TEXT

Act February 22, 1889, referred to in text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676. Provisions relating to admission of the enumerated States into the Union are not classified to the Code.

### § 862. Omitted

CODIFICATION

Section, act June 18, 1874, ch. 305, 18 Stat. 80, provided for issuance of patents for lands granted State of Oregon prior to June 18, 1874, upon certificate of Governor that wagon roads had been built over those lands in accordance with terms of grants.

### § 863. Survey of lands granted to certain Western States

It shall be lawful for the Governors of the States of Washington, Idaho, Montana, North Dakota, South Dakota, Utah, and Wyoming to

apply to the Secretary of the Interior or such officer as he may designate for the survey of any township or townships of public land then remaining unsurveyed in any of the several surveying districts, with a view to satisfy the public land grants made by the several Acts admitting the said States into the Union to the extent of the full quantity of land called for thereby; and upon the application of said governors the Secretary or such officer shall proceed to immediately notify such officer as may be designated by the Secretary of the application made by the governor of any of the said States of the application made for the withdrawal of said lands, and the officer so designated shall proceed to have the survey or surveys so applied for made, as in the cases of surveys of public lands; and the lands that may be found to fall within the limits of such township or townships, as ascertained by the survey, shall be reserved upon the filing of the application for survey from any adverse appropriation by settlement or otherwise except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from the date of the filing of the township plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of such grants, with the condition, however, that the governor of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from the first publication, in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such township or townships, giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for; and after the expiration of such period of sixty days any lands which may remain unselected by the State, and not otherwise appropriated according to law, shall be subject to disposal under general laws as other public lands: *And provided further*, That the Secretary of the Interior or such officer as he may designate shall give notice immediately of the reservation of any township or townships to the local land office in which the land is situate of the withdrawal of such township or townships, for the purpose hereinbefore provided.

(Aug. 18, 1894, ch. 301, 28 Stat. 394; Mar. 3, 1925, ch. 462, 43 Stat. 1144; June 26, 1934, ch. 756, § 22, 48 Stat. 1236; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEALS

Act June 26, 1934, ch. 756, § 22, 48 Stat. 1236, cited as a credit to this section, was repealed by Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1074.

AMENDMENTS

1934—Act June 26, 1934, repealed last proviso which authorized governors of States named to advance money for survey of certain townships.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

First and third references to "Commissioner of the General Land Office" changed to "Secretary of the Interior or such officer as he may designate"; second such reference changed to "Secretary or such officer"; and the two references to "Supervisor of Surveys" changed to "such officer as may be designated by the Secretary" and "the officer so designated," respectively, all on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 864. Survey of land grants to Florida

It shall be lawful for the properly credited agent or official of the State of Florida having in charge the adjustment of its school grant to apply to the Secretary of the Interior, or such officer as he may designate, for the survey of any townships or parts of townships of public land unsurveyed in any of the surveying districts of said State, with a view to satisfy the grant in aid of schools made to said State of Florida to the extent of the full quantity of land called for thereby; and upon the application of said agent or official, the Secretary or such officer as he may designate shall proceed to have the survey or surveys so applied for made, as in the case of surveys of other public lands; and the lands that may be found to fall within the limits of such townships or parts of townships as ascertained by the survey shall be reserved, upon the filing of the application for survey from any adverse appropriation by settlement or otherwise, except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from date of filing of the township plat of survey in the proper district land office, which period of sixty days the State may select any of such lands not embraced in any valid adverse claim for the satisfaction of its school grant, as aforesaid, with the condition, however, that the agent or official of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from date of first publication in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such townships or parts of townships giving notice to all parties interested of the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for, and after the expiration of such sixty days any lands which may remain unselected by the State and not otherwise appropriated according to law shall be subject to disposal under general laws as other public lands: *Provided*, That the Secretary or such officer as he may designate shall give notice immediately of the reservation of any township or parts of townships to the officials of the local land office of the land district in which the land is situated of the withdrawal of such townships or parts of townships for the purpose hereinbefore provided: *Provided further*, That nothing

herein shall be deemed to authorize the Secretary or such officer as he may designate to survey any lands within the exterior boundaries of the Everglades, as defined in Everglades patent numbered 137, issued to the State of Florida by the United States under the Swamp Land Act of 1850.

(Feb. 16, 1921, ch. 60, 41 Stat. 1103; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

The Swamp Land Act of 1850, referred to in text, is act Sept. 28, 1850, ch. 84, 9 Stat. 519, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2479–2481, which are classified to sections 982 to 984 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

First reference to ''Commissioner of the General Land Office'' changed to ''Secretary of the Interior, or such officer as he may designate,'', and remaining three such references changed to ''Secretary or such officer as he may designate'', on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## § 865. Confirmation of certain lands selected by California

All selections of any portion of the public domain, to which, prior to July 23, 1866, no homestead, preemption, or other right had been acquired by any settler under the laws of the United States, and not being mineral land, nor reserved for naval, military, or Indian purposes nor held or claimed under any valid Mexican or Spanish grant, and not included within the limits of any city, town, or village or of the county of San Francisco, made prior to the 23d day of July 1866, and theretofore sold to bona fide purchasers by the State of California are confirmed to the State of California: *Provided, however*, That said State shall not receive any greater quantity of land for school or improvement purposes than she is entitled to by law.

When selections named in the above paragraph have been made upon lands already surveyed by authority of the United States, the authorities of said States, where the same has not been already done, shall notify the officer, as the Secretary of the Interior may designate, of the land office, for the district in which the land is situated, which notice shall be regarded as the date of the State selection; and the said officers, as the Secretary may designate, of the several land offices, after investigation and decision, shall, under the instruction of the Secretary of the Interior, or such officer as he may designate, forward all such selections to the Bureau of Land Management, and the Secretary or such officer shall certify the same over to the State in the usual manner.

When the State of California has made such selections from the lands not surveyed by the authority of the United States, but which selections have been surveyed by the authority of said State, and the land sold to purchasers in good faith, under the laws of the State, such selections, from said 23d of July, 1866, when marked off and designated in the field, shall have the same force and effect as the preemption rights of a settler upon unsurveyed public lands; and if upon a survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon filing with the officer as the Secretary of the Interior may designate of the proper United States land office of the township plat, in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the same time to present and prove up his purchase and claim as was allowed preemptors under existing laws, and if found in accordance with the law the land embraced therein shall be certified over to the State by the Secretary of the Interior or such officer as he may designate.

(R.S. §§ 2485–2487; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2485 derived from acts July 23, 1866, ch. 219, § 1, 14 Stat. 218; Mar. 3, 1875, ch. 139, § 7, 18 Stat. 475. R.S. §§ 2486, 2487 are from act July 23, 1866, ch. 219, § 23, 14 Stat. 219.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

In second par., ''register of the land office,'' changed to ''officer, as the Secretary of the Interior may designate, of the land office,''; ''registers of the several land offices,'' changed to ''officers, as the Secretary may designate, of the several land offices,''; first reference to ''Commissioner of the General Land Office'' changed to ''Secretary of the Interior, or such officer as he may designate,''; ''Bureau of Land Management'' substituted for ''General Land Office''; and second reference to ''Commissioner of the General Land Office'' changed to ''Secretary or such officer'', on authority of section 403 of Reorg. Plan No. 3 of 1946. In third par., ''register'' changed to ''officer as the Secretary of the Interior may designate'', and ''Commissioner of the General Land Office'' changed to ''Secretary of the Interior or such officer as he may designate'', on authority of that plan. See note set out under section 1 of this title.

## § 866. Exchange of cut over land in Montana

Tracts of timbered lands prior to February 14, 1923, granted to the State of Montana for educational purposes, from which the timber has been cut or removed pursuant to State laws, may, under such rules and regulations as the legislature of said State shall prescribe, be exchanged for other lands of like character and approximately of equal value, in private ownership, which exchanged land shall be subject to the same requirements and limitations to the end that the State may acquire holdings in reasonably compact form and reforesting be undertaken in an economic manner, anything in the enabling act of said State to the contrary notwithstanding.

(Feb. 14, 1923, ch. 74, 42 Stat. 1245.)

REFERENCES IN TEXT

The enabling act of Montana, referred to in text, is act Feb. 22, 1889, ch. 180, 25 Stat. 676. For complete classification of this Act to the Code, see Tables.

### § 867. Omitted

CODIFICATION

Section, R.S. § 2377; act June 20, 1874, ch. 330, 18 Stat. 111, related to extension of obsolete section 829 of this title to reissue of agricultural land scrip, canceled, or destroyed without the fault of the owner thereof.

### § 868. Representation of Indian claimants in suits to determine right to school lands

In any suit instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian Reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposition thereof by the United States, the right of such State may be fully tested and determined without making the Indian tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney General upon the request of such Secretary.

(Mar. 2, 1901, ch. 808, 31 Stat. 950.)

### § 869. Disposal of lands for public or recreational purposes

#### (a) Application; conditions; classification; restoration if not applied for

The Secretary of the Interior upon application filed by a duly qualified applicant under section 869–1 of this title may, in the manner prescribed by sections 869 to 869–4 of this title, dispose of any public lands to a State, Territory, county, municipality, or other State, Territorial, or Federal instrumentality or political subdivision for any public purposes, or to a nonprofit corporation or nonprofit association for any recreational or any public purpose consistent with its articles of incorporation or other creating authority. Before the land may be disposed of under sections 869 to 869–4 of this title it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall provide an opportunity for participation by affected citizens in disposals under sections 869 to 869–4 of this title, including public hearings or meetings where he deems it appropriate to provide public comments, and shall hold at least one public meeting on any proposed disposal of more than six hundred forty acres under sections 869 to 869–4 of this title. The Secretary may classify public lands in Alaska for disposition under sections 869 to 869–4 of this title. Lands so classified may not be appropriated under any other public land law unless the Secretary revises such classification or authorizes the disposition of an interest in the lands under other applicable law. If, within eighteen months following such classification, no application has been filed for the purpose for which the lands have been so classified, then the Secretary shall restore such lands to appropriation under the applicable public land laws.

#### (b) Acreage limitations

Conveyances made in any one calendar year shall be limited as follows:

(i) For recreational purposes:

(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, hereinafter referred to as the State, or to any political subdivision of such State, six thousand four hundred acres, and such additional acreage as may be needed for small roadside parks and rest sites of not more than ten acres each.

(B) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under sections 869 to 869–4 of this title in any one State per calendar year. Should any State or political subdivision, however, fail to secure, in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year.

(ii) For public purposes other than recreation:

(A) To any State or agency or instrumentality thereof, for any one program, six hundred and forty acres.

(B) To any political subdivision of a State, six hundred and forty acres.

(C) To any nonprofit corporation or nonprofit association, six hundred and forty acres.

#### (c) Lands withdrawn in aid of functions of a department, agency, State, etc.; lands excepted from disposal

Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under sections 869 to 869–4 of this title only with the consent of such Federal department or agency, or of such State, Territory, or local governmental unit. Nothing in sections 869 to 869–4 of this title shall be construed to apply to lands in any national forest, national park, or national monument, or national wild-

life refuge, or to any Indian lands or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians, or, except insofar as sections 869 to 869–4 of this title apply to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations, to the revested Oregon and California Railroad grant lands and the reconveyed Coos Bay Wagon Road grant lands in the State of Oregon. Nor shall any disposition be made under sections 869 to 869–4 of this title for any use authorized under any other law, except for a use authorized under sections 682a to 682e[1] of this title.

(June 14, 1926, ch. 578, § 1, 44 Stat. 741; June 4, 1954, ch. 263, 68 Stat. 173; Pub. L. 86–66, § 2, June 23, 1959, 73 Stat. 110; Pub. L. 86–292, § 1, Sept. 21, 1959, 73 Stat. 571; Pub. L. 86–755, Sept. 13, 1960, 74 Stat. 899; Pub. L. 94–579, title II, § 212(a), (b), Oct. 21, 1976, 90 Stat. 2759.)

REFERENCES IN TEXT

Sections 682a to 682e of this title, referred to in subsec. (c), were repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94–579, § 212(a), inserted provisions requiring lands proposed to be disposed not to be of national significance nor more than reasonably necessary for the proposed use, provisions relating to proposals of over 640 acres, and provisions relating to participation by affected individuals.

Subsec. (b)(1). Pub. L. 94–579, § 212(b), in cl. (A) inserted reference to State political subdivision and struck out limitation of three sites, limitation of six sites for calendar years 1960, 1961, and 1962, and proviso for additional sites where conveyances in one year did not meet the authorized number, in cl. (B) substituted ''nonprofit corporation or nonprofit association'' for ''political subdivision of a State'', and in cl. (C) substituted provisions relating to authorization for a calendar year, for provisions authorizing six hundred and forty acres to any nonprofit corporation or association.

1960—Subsec. (b)(i)(A). Pub. L. 86–755 inserted ''or the State park agency or any other agency having jurisdiction over the State park system of said State designated by the Governor of that State as its sole representative for acceptance of lands under this provision,'' after ''State'' and inserted proviso.

1959—Subsec. (b). Pub. L. 86–292 substituted acreage limitations making special allowances to States for recreational areas for provision which limited conveyance to 640 acres to any one grantee in any one calendar year.

Subsec. (c). Pub. L. 86–66 substituted provisions making sections 869 to 869–4 of this title inapplicable, except insofar as those sections apply to leases of land to States and counties and to State and Federal instrumentalities and political subdivisions and to municipal corporations, to revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands in the State of Oregon, for provisions which made those sections inapplicable to the revested Oregon and California Railroad grant lands and reconveyed Coos Bay Wagon Road grant lands.

1954—Act June 4, 1954, divided provisions of act June 14, 1926, on which this section is based, into separate sections (now set out as this section and sections 869–1 to 869–4 of this title), and changed provisions generally to broaden authority of Secretary of the Interior to dispose of public lands for public purposes (1) by including provisions for disposal thereof to Territories (including Alaska), other political subdivisions, and nonprofit corporations and associations rather than to States, counties, and municipalities only, (2) by permitting the disposal thereof for ''public'' purposes, rather than merely for ''recreational'' purposes as theretofore, (3) by striking out ''nonmineral'' in describing the lands which may be so disposed of, (4) by inserting limitation provisions set out in subsecs. (b) and (c) of this section, (5) by amending and transferring to section 2 of that act (section 869–1 of this title) provisions governing methods of, and conditions with respect to the, disposing of the lands for those purposes (see Prior Provisions note set out under section 869–1 of this title), including provision for the reservation of mineral deposits, (6) by amending and transferring to section 3 of that act (section 869–2 of this title) provisions with respect to reversion of the lands to the United States in certain cases (see Prior Provisions note set out under section 869–2 of this title), (7) by enacting, as section 4 of that act, provisions set out as section 869–3 of this title, and (8) by inserting provision in this section that disposals should be made ''upon application by a duly qualified applicant'' under section 869–1 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86–755 provided that the amendment made by Pub. L. 86–755 is effective Sept. 21, 1959.

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–648, § 1, Nov. 10, 1988, 102 Stat. 3813, provided that: ''This Act [amending section 869–2 of this title and enacting provisions set out as notes under section 869–2 of this title] may be cited as the 'Recreation and Public Purposes Amendment Act of 1988'.''

SHORT TITLE

Act June 14, 1926, ch. 578, 44 Stat. 741, which enacted sections 869 to 869–4 of this title, is popularly known as the ''Recreation and Public Purposes Act''.

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.

## § 869–1. Sale or lease to State or nonprofit organization; reservation of mineral deposits; termination of lease for nonuse

The Secretary of the Interior may after due consideration as to the power value of the land, whether or not withdrawn therefor, (a) sell such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, and conveyances of such land for historic-monument purposes or recreational purposes under this section shall be made without monetary consideration, while conveyances for any other purpose under this section shall be made at a price to be fixed by the Secretary of the Interior through appraisal or otherwise, after taking into consideration the purpose for which the lands are to be used, (b) lease such land to the State, Territory, county, or other State, Territorial, or Federal instrumentality or political subdivision in which the lands are situated, or to a nearby municipal corporation in the same State or Territory, for the purpose for which the land has been classified, at a reasonable annual rental, except that leases of such lands for recreational pur-

[1] See References in Text note below.

poses shall be made without monetary consideration, for a period up to twenty-five years, and, at the discretion of the Secretary, with a privilege of renewal for a like period, (c) sell such land to a nonprofit corporation or nonprofit association, for the purpose for which the land has been classified, at a price to be fixed by the Secretary of the Interior through appraisal, after taking into consideration the purpose for which the lands are to be used, or (d) lease such land to a nonprofit corporation or nonprofit association at a reasonable annual rental, for a period up to twenty years, and, at the discretion of the Secretary, with a privilege of renewal for a like period. Each patent or lease so issued shall contain a reservation to the United States of all mineral deposits in the lands conveyed or leased and of the right to mine and remove the same, under applicable laws and regulations to be established by the Secretary. Each lease shall contain a provision for its termination upon a finding by the Secretary that the land has not been used by the lessee for the purpose specified in the lease for such period, not over five years, as may be specified in the lease, or that such land or any part thereof is being devoted to another use.

(June 14, 1926, ch. 578, § 2, as added June 4, 1954, ch. 263, 68 Stat. 174; amended Pub. L. 89–457, § 1, June 20, 1966, 80 Stat. 210; Pub. L. 94–579, title II, § 212(c), (d), Oct. 21, 1976, 90 Stat. 2760.)

PRIOR PROVISIONS

Provisions similar to those in this section were formerly contained in section 869 of this title. See 1954 Amendment note set out under that section. Those prior provisions did not require, as in this section, the Secretary of the Interior to take into account the possible power value of the lands, whether withdrawn therefor, or not, before authorizing any disposal of them under section 869 of this title; did not provide, as in this section, for the sale or lease of those lands to Federal instrumentalities, to Territories and to political subdivisions other than States, counties, and municipalities, and to nonprofit corporations and associations; and did not provide, as in this section, that conveyances of that land for historic-monument purposes should be made without monetary consideration. See section 869 of this title.

AMENDMENTS

1976—Pub. L. 94–579 in cl. (a) inserted reference to recreational purposes and in cl. (b) inserted reference to leases for recreational purposes.

1966—Pub. L. 89–457 authorized an increase in the period of a lease under cl. (b) from twenty to twenty-five years.

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.

PERIOD OF LEASES

Section 2 of Pub. L. 89–457 provided that: ''Upon application by a lessee holding a lease under the Recreation and Public Purposes Act [sections 869 to 869–4 of this title] the Secretary of the Interior may enter into a new lease for a term not to exceed twenty-five years from the date of the new lease.''

## § 869–2. Conditions of transfer by grantee; solid waste disposal

### (a) Conditions of transfer by grantee

Title to lands conveyed by the Government under sections 869 to 869–4 of this title may not be transferred by the grantee or its successor except, with the consent of the Secretary of the Interior, to a transferee which would be a qualified grantee under section 869–1(a) or 869–1(c) of this title and subject to the acreage limitation contained in section 869(b) of this title. A grantee or its successor may not change the use specified in the conveyance to another or additional use except, with the consent of the Secretary, to a use for which such grantee or its successor could obtain a conveyance under sections 869 to 869–4 of this title. If at any time after the lands are conveyed by the Government, the grantee or its successor attempts to transfer title to or control over these lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without the consent of the Secretary, title to the lands shall revert to the United States.

### (b) New disposal sites

(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land under sections 869 to 869–4 of this title for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and Federal agencies with responsibility for enforcement of State and Federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and Federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

(6) A conveyance under this subsection shall be subject to the following conditions:

(A) Except as otherwise provided in subparagraphs (B) and (D) of this paragraph, the document of conveyance shall provide that the lands conveyed under this subsection shall revert to the United States, unless substantially all of the lands have been used, on or before the date five years after the date of conveyance, for the purpose or purposes specified in the application, or for other use or uses authorized under subsection (a) of this section with the consent of the Secretary.

(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused portion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. Subject to appropriations, all amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 869–1 of this title, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance.

(7) For purposes of this section the term ''hazardous substance'' has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

**(c) Existing disposal sites**

(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to November 10, 1988, conveyed land under sections 869 to 869–4 of this title, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to November 10, 1988, leased lands pursuant to sections 869 to 869–4 of this title, the Secretary may convey in fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of sections 869 to 869–4 of this title, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section.

(June 14, 1926, ch. 578, § 3, as added June 4, 1954, ch. 263, 68 Stat. 175; amended Pub. L. 86–292, § 2, Sept. 21, 1959, 73 Stat. 571; Pub. L. 100–648, § 2, Nov. 10, 1988, 102 Stat. 3813.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act, referred to in subsec. (b)(7), probably means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 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 9601 of Title 42 and Tables.

PRIOR PROVISIONS

Prior provisions on the subject of reverter were formerly contained in section 869 of this title. See 1954 Amendment note set out under that section. Those prior provisions permanently restricted the lands conveyed to a single use, and did not provide, as in this section, for transfer by the original grantee or its successor.

AMENDMENTS

1988—Pub. L. 100–648 designated existing provision as subsec. (a) and added subsecs. (b) and (c).

1959—Pub. L. 86–292 struck out sentence which provided that this section should cease to be in effect as to any lands patented under sections 869 to 869–4 of this title twenty-five years after the issuance of patent for such lands.

SAVINGS PROVISIONS

Section 3 of Pub. L. 100–648 provided that: ''Nothing in this Act [amending section 869–2 of this title and enacting provisions set out as notes under sections 869 and 869–2 of this title] or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation[,] and Liability Act [of 1980] (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended.''

CONGRESSIONAL REVIEW OF CONVEYANCE OF LAND OR RENUNCIATION OF REVERSIONARY INTERESTS

Section 4 of Pub. L. 100–648 provided that:

''(a) The Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act [amending section 869–2 of this title and enacting provisions set out as notes under sections 869 and 869–2 of this title] until he has published in the Federal Register regulations implementing this Act and until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after these regulations have been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. [Implementing regulations were published in the Federal Register July 23, 1992, 57 F.R. 32730.]

''(b) During the first three years after enactment of this Act [Nov. 10, 1988] the Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after notice of intention to do so has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.''

### § 869–3. Authority for transfers; applicability of section 869–2 to prior patents; termination of restrictions

The Secretary may authorize transfers of title or changes in use in accordance with the provisions of section 869–2 of this title with respect to any patent heretofore issued under any Act upon application by a patentee qualified to obtain a conveyance under section 869–1(a) or 869–1(c) of this title. If the Secretary, pursuant to such an application, authorizes such transfer or use, all reverter provisions and other limitations on transfer or use, under sections 869 to 869–4 of this title or any other Act affecting the lands involved, shall cease to be in effect twenty-five years after the Secretary authorizes the transfer or use for a changed or additional purpose under the provisions of this section.

(June 14, 1926, ch. 578, § 4, as added June 4, 1954, ch. 263, 68 Stat. 175.)

### § 869–4. Disposition of moneys received from or on account of revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands

All moneys received from or on account of any revested Oregon and California Railroad grant lands or reconveyed Coos Bay Wagon Road grant lands under sections 869 to 869–4 of this title shall be deposited respectively in the Oregon and California land-grant fund and the Coos Bay Wagon Road grant fund, and shall be applied in the manner prescribed respectively by section 1181f of this title, and by sections 1181f–1 to 1181f–4 of this title.

(June 14, 1926, ch. 578, § 6, as added Pub. L. 86–66, § 3, June 23, 1959, 73 Stat. 111.)

### § 869a. Repealed. Pub. L. 86–66, § 1, June 23, 1959, 73 Stat. 110

Section, act Apr. 13, 1928, ch. 370, §§ 1, 2, 45 Stat. 429, extended provisions of section 869 of this title to former Oregon and California Railroad grant lands revested in the United States and to former Coos Bay Wagon Road grant lands reconveyed to the United States.

### § 870. Grants of land in aid of common or public schools; extension to those mineral in character; effect of leases

Subject to the provisions of subsections (a), (b), and (c) of this section, the several grants to the States of numbered sections in place for the support or in aid of common or public schools be, and they are, extended to embrace numbered school sections mineral in character, unless land has been granted to and/or selected by and certified or approved, to any such State or States as indemnity or in lieu of any land so granted by numbered sections.

(a) The grant of numbered mineral sections under this section shall be of the same effect as prior grants for the numbered nonmineral sections, and titles to such numbered mineral sections shall vest in the States at the time and in the manner and be subject to all the rights of adverse parties recognized by existing law in the grants of numbered nonmineral sections.

(b) The additional grant made by this section is upon the express condition that all sales, grants, deeds, or patents for any of the lands so granted shall hereafter be subject to and contain a reservation to the State of all the coal and other minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such lands not heretofore disposed of by the State shall be subject to lease by the State as the State legislature may direct, the proceeds and rentals and royalties therefrom to be utilized for the support or in aid of the common or public schools: *Provided*, That any lands or minerals hereafter disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

(c) Except as provided in subsection (d) of this section, any lands included within the limits of existing reservations of or by the United States, or specifically reserved for water-power purposes, or included in any pending suit or proceeding in the courts of the United States, or subject to or included in any valid application, claim, or right initiated or held under any of the existing laws of the United States, unless or until such reservation, application, claim, or right is extinguished, relinquished, or canceled, and all lands in the Territory of Alaska, are excluded from the provisions of this section.

(d)(1) Notwithstanding subsection (c) of this section, the fact that there is outstanding on any numbered school section, whether or not mineral in character, at the time of its survey a mineral lease or leases entered into by the United States, or an application therefor, shall not prevent the grant of such numbered school section to the State concerned as provided by this section and section 871 of this title.

(2) Any such numbered school section which has been surveyed prior to July 11, 1956, and which has not been granted to the State concerned solely by reason of the fact that there was outstanding on it at the time of the survey a mineral lease or leases entered into by the

United States, or an application therefor, is hereby granted by the United States to such State under this section as if it had not been so leased; and the State shall succeed the position of the United States as lessor under such lease or leases.

(3) Any such numbered school section which is surveyed on or after July 11, 1956, and on which there is outstanding at the time of such survey a mineral lease or leases entered into by the United States, shall (unless excluded from the provisions of this section by subsection (c) of this section for a reason other than the existence of an outstanding lease) be granted to the State concerned immediately upon completion of such survey; and the State shall succeed to the position of the United States as lessor under such lease or leases.

(4) The Secretary of the Interior shall, upon application by a State, issue patents to the State for the lands granted by this section and section 871 of this title, in accordance with section 871a[1] of this title. Such patent shall, if the lease is then outstanding, include a statement that the State succeeded to the position of the United States as lessor at the time the title vested in the State.

(5) Where at the time rents, royalties, and bonuses accrue the lands or deposits covered by a single lease are owned in part by the State and in part by the United States, the rents, royalties, and bonuses shall be allocated between them in proportion to the acreage in said lease owned by each.

(6) As used in this subsection, ''lease'' includes ''permit'' and ''lessor'' includes ''grantor''.

(Jan. 25, 1927, ch. 57, § 1, 44 Stat. 1026; May 2, 1932, ch. 151, § 1, 47 Stat. 140; Apr. 22, 1954, ch. 169, 68 Stat. 57; July 11, 1956, ch. 572, 70 Stat. 529.)

REFERENCES IN TEXT

Section 871a of this title, referred to in subsec. (d)(4), was repealed by Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792.

AMENDMENTS

1956—Subsec. (d). Act July 11, 1956, provided that numbered school sections under mineral leases may be granted to a State, whether or not the sections are mineral in character, and added subpar. (6).

1954—Subsec. (c). Act Apr. 22, 1954, § 2, substituted ''Except as provided in subsection (d) of this section, any'' for ''any''.

Subsec. (d). Act Apr. 22, 1954, § 1, added subsec. (d).

1932—Subsec. (b). Act May 2, 1932, inserted ''hereafter'' in two places and ''not heretofore disposed of by the State'' after ''mineral deposits in such lands''.

Subsec. (c). Act May 2, 1932, inserted ''reservation'' before ''application''.

EFFECTIVE DATE OF 1932 AMENDMENT

Section 2 of act May 2, 1932, provided that: ''This amendatory Act [amending this section] shall take effect as of January 25, 1927; and in any case in which a State has selected lieu lands since such date under the Act approved February 28, 1891 (26 Stat. 796) [sections 851 and 852 of this title], and still retains title thereto, such State may, within ninety days after the date of the enactment of this Act [May 2, 1932], relinquish to the United States all right, title, and interest in such lands and shall thereupon be entitled to all the benefits of the Act of January 25, 1927 [sections 870 and 871 of this title], as amended by this Act.''

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

[1] See References in Text note below.

## § 871. Certain grants and laws unaffected

Nothing contained in section 870 of this title is intended or shall be held or construed to increase, diminish, or affect the rights of States under grants other than for the support of common or public schools by numbered school sections in place, and said section shall not apply to indemnity or lieu selections or exchanges or the right after January 25, 1927, to select indemnity for numbered school sections in place lost to the State under the provisions of said section or any Acts, and all existing laws governing such grants and indemnity or lieu selections and exchanges are continued in full force and effect.

(Jan. 25, 1927, ch. 57, § 2, 44 Stat. 1027.)

## § 871a. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section, act June 21, 1934, ch. 689, 48 Stat. 1185, authorized issuance of patents to numbered school sections granted for support of common schools.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## § 872. Conveyances to United States in connection with applications for amendment of patented entries or for exchange of land, etc.; withdrawal or rejection of applications; reconveyances

Where a conveyance of land has been made or may hereafter be made to the United States in connection with an application for amendment of a patented entry or entries, or an exchange of lands, or for any other purpose, and the application in connection with which the conveyance was made is thereafter withdrawn or rejected, the Secretary of the Interior or such officer as he may designate is authorized and directed, if the deed of conveyance has been recorded, to execute a quitclaim deed of the conveyed land to the party or parties entitled thereto.

(Apr. 28, 1930, ch. 219, § 6, 46 Stat. 257; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior under this section, with respect to execution of quitclaim deeds for lands conveyed to United States in connection with exchange transactions involving lands under jurisdiction of Secretary of Agriculture, transferred to Secretary of Agriculture, see Pub. L. 86–509, June 11, 1960, 74 Stat.

205, set out as a note under section 2201 of Title 7, Agriculture.

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 873. Lands granted for erecting public buildings; purpose of grant

In any case in which public lands of the United States have been granted to a State, before May 16, 1958, for the purpose of erecting public buildings at the capital of such State for legislative, executive, and judicial purposes, the purpose of such grant shall be deemed to include construction, reconstruction, repair, renovation, and other permanent improvements of such public buildings, the acquisition of necessary land for such buildings, furnishings and equipment for such buildings, and the payment of principal and interest on bonds issued for any such purpose.

(Pub. L. 85–411, May 16, 1958, 72 Stat. 117.)

## CHAPTER 21—GRANTS IN AID OF RAILROADS AND WAGON ROADS

Sec.
881. Cost of survey of grants to railroads; payment.
882. Surveyed lands taxable notwithstanding lien; provisos.
883. Collection of costs of surveying, etc.; reimbursement of purchaser.
884. Right of forfeiture of railroad grants not affected.
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890. Homestead entries on railroad lands prior to withdrawal or after restoration to market confirmed.
891. Abandoned railroad lands; reentry.
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895. Cancellation of patents erroneously issued; reconveyance.
896. Erroneous cancellation of bona fide entries corrected.
897. Patents to purchasers from railroads; purchase money.
898. Rights of purchasers from railroads of coterminous lands not within grants.
899. Limitation of quantity to be conveyed.
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901. Claims of bona fide purchasers; establishment of rights.
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### § 881. Cost of survey of grants to railroads; payment

Before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

(July 15, 1870, ch. 292, 16 Stat. 305; July 31, 1876, ch. 246, 19 Stat. 121.)

### § 882. Surveyed lands taxable notwithstanding lien; provisos

No lands granted to any railroad corporation by any Act of Congress shall be exempt from taxation by States, Territories, and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting, and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed: *Provided*, That any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting, and conveying, to be paid in such manner by the purchaser as the Secretary of the Interior may by rule provide and to all liens of the United States, all mortgages of the United States, and all rights of the United States in respect of such lands: *Provided further*, That sections 882 to 885 of this title shall apply only to lands situated opposite to and coterminous with completed portions of said roads, and in organized counties: *Provided further*, That at any sale of lands under the provisions of sections 882 to 885 of this title the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto.

(July 10, 1886, ch. 764, §1, 24 Stat. 143.)

### § 883. Collection of costs of surveying, etc.; reimbursement of purchaser

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its

use and benefit by Act of Congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the Secretary of the Interior, he shall notify the Attorney General, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting, and conveying any tract of land which shall have been purchased under the provisions of section 882 of this title, the Secretary of the Interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting, and conveying.

(July 10, 1886, ch. 764, § 2, 24 Stat. 143.)

### § 884. Right of forfeiture of railroad grants not affected

Sections 882 to 885 of this title shall not affect the right of the Government to declare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if said sections had not passed, except as to the lien mentioned in section 882 of this title.

(July 10, 1886, ch. 764, § 3, 24 Stat. 143.)

### § 885. Union Pacific Railroad lands

The costs of surveying, selecting, and conveying lands granted to the Union Pacific Railroad Company shall become due and payable at and on the demand therefor made by the Secretary of the Interior as provided in section 883 of this title, and nothing in sections 882 to 885 of this title shall be construed or taken in any wise to affect or impair the right of Congress at any time further to alter, amend, or repeal the Act of July 2, 1864, chapter 216, as in the opinion of Congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises existing on July 10, 1886, in favor of the United States. Sections 882 to 885 of this title shall be subject to alteration, amendment, or repeal.

(July 10, 1886, ch. 764, § 4, 24 Stat. 143.)

REFERENCES IN TEXT

Act of July 2, 1864, referred to in text, is act July 2, 1864, ch. 216, 13 Stat. 357, which enacted section 942–3 of this title and first paragraph of former section 83 of Title 45, Railroads. For complete classification of this Act to the Code, see Tables.

### § 886. Survey of lands within limits of railroad grants

For the survey of the public lands lying within the limits of land grants made by Congress to aid in the construction of railroads, and the selection therein of such lands as are granted therefor, to enable the Secretary of the Interior to carry out the provisions of section 894 of this title, the sum of $100,000 heretofore appropriated is made a continuing appropriation for the survey of lands within the limits of railroad land grants, and any money which shall be expended of such appropriation and reimbursed and paid into the Treasury is reappropriated, and said sum shall remain a continuing appropriation, and so often as any part of the same shall, after being expended, be reimbursed by any railroad company as hereinafter provided, the same shall be again available for the purposes aforesaid: *Provided*, That any portion of said sum expended for surveying such lands shall be reimbursed by the respective companies or parties in interest for whose benefit the lands are granted, according to the provisions of section 881 of this title: *And provided further*, That whenever there shall have been reimbursed and paid into the Treasury of the United States, by the respective companies or parties in interest, any part of said appropriation expended for surveys within such grants, there shall be immediately available, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount so reimbursed, and the same shall be available for the survey of the public lands lying within the limits of the railroad land grants made by Congress, until all of said lands shall have been surveyed: *Provided*, That nothing herein contained shall be construed to prevent the use, within the limits of any railroad land grant made by Congress, of any part of any regular appropriation for surveying the public lands: *Provided*, That no part of the foregoing money shall be used for any land embraced in any grant to the State of Florida: *And provided further*, That the provisions of law requiring reimbursements to be made to the United States by railroad corporations claiming such grants shall apply equally to the successors of such railroad corporations acquiring title to their lands and other property, under decree of foreclosure of any mortgage authorized by Congress.

(Mar. 2, 1895, ch. 189, § 1, 28 Stat. 937; Pub. L. 96–470, title I, § 108(b), Oct. 19, 1980, 94 Stat. 2239.)

AMENDMENTS

1980—Pub. L. 96–470 struck out provision requiring Secretary of the Interior to report to each regular session of Congress what has been done under this section.

APPROPRIATIONS

Effective July 1, 1935, the continuing appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225.

### § 887. Deposits for surveys of lands granted to railroads

When any railroad company claiming a grant of land under any Act of Congress, desiring to secure the survey of any unsurveyed lands within the limits of its grant, shall file an application therefor in writing with such officer as the Secretary of the Interior may designate, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey and for the examination thereof pursuant to law and the rules and regulations of the Department of the Interior under the direction of the Secretary of the Interior or such officer as he may designate, it shall thereupon be the duty of the Secretary or such officer, or the Director of the United States Geological Survey, as the case may be, to cause said lands to be surveyed.

For any deposits made by any railroad company hereunder, certificates shall be issued, which may be used by such railroad company,

its successors or assigns, to the same extent as cash is now allowed in payment of entries of public lands under existing law and regulations for any public lands of the United States in the States where the surveys were made, or for any survey or office fees due the United States from such railroad company on account of surveys of lands within its grant. The Secretary of the Interior shall provide such rules and regulations as may be necessary for carrying out the foregoing provisions.

(Feb. 27, 1899, ch. 205, 30 Stat. 892; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000.)

CHANGE OF NAME

''United States Geological Survey'' substituted for ''Geological Survey'' in first undesignated paragraph pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Supervisor of Surveys,'' changed to ''such officer as the Secretary of the Interior may designate,'' and two references to ''Commissioner of the General Land Office,'' changed to ''Secretary of the Interior or such officer as he may designate,'' and ''Secretary or such officer,'' respectively, on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 888. Selection by railroads of lands in lieu of lands entered subsequent to accrual of rights; title of settlers

In the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the preemption or homestead laws of the United States subsequent to the time at which, by the decision of the land office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral and within the limits of the grant not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: *Provided*, That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad or to extend to lands reserved in any land grant made for railroad purposes: *And provided further*, That this section shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company when such lands have been entered by a preemption or homestead settler after the location of the line of the road and prior to the notice to the local land office of the withdrawal of such lands from market.

(June 22, 1874, ch. 400, 18 Stat. 194.)

### § 889. Rights of entrymen whose entries had not been admitted to record

The privileges granted by section 888 of this title are extended (subject to the provisos, limitations, and restrictions thereof) to all persons entitled to the right of homestead or preemption under the laws of the United States, who have resided upon and improved for five years lands granted to any railroad company, but whose entries or filings have not for any cause been admitted to record.

(Aug. 29, 1890, ch. 819, 26 Stat. 369.)

### § 890. Homestead entries on railroad lands prior to withdrawal or after restoration to market confirmed

All preemption and homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land office of the district in which such lands are situated, or after their restoration to market by order of the Bureau of Land Management, and where the preemption and homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, shall be confirmed, and patents for the same shall issue to the parties entitled thereto.

(Apr. 21, 1876, ch. 72, § 1, 19 Stat. 35; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 891. Abandoned railroad lands; reentry

When at the time of such withdrawal as aforesaid, valid preemption or homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were reentered by preemption or homestead claimants who have complied with the laws governing preemption or homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto.

(Apr. 21, 1876, ch. 72, § 2, 19 Stat. 35.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 892. Entries after expiration of grant

All such preemption and homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefor.

(Apr. 21, 1876, ch. 72, § 3, 19 Stat. 36.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 893. Rights of permissive settlers on railroad lands restored to public domain

All persons who shall have settled and made valuable and permanent improvements upon any odd-numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved, may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the homestead laws of the United States, shall be permitted, at any time within three months after such restoration, and under such rules and regulations as the Secretary of the Interior, or such officer as he may designate, may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of $2.50 per acre, and to receive patents therefor.

(Jan. 13, 1881, ch. 19, 21 Stat. 315; Mar. 3, 1891, ch. 561, §§ 1, 4, 26 Stat. 1095, 1097; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior, or such officer as he may designate," substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 894. Adjustment of land grants to railroads

The Secretary of the Interior is authorized and directed as of March 3, 1887, to adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and theretofore unadjusted.

(Mar. 3, 1887, ch. 376, § 1, 24 Stat. 556.)

### § 895. Cancellation of patents erroneously issued; reconveyance

If it shall appear, upon the completion of such adjustments, respectively, or sooner, that lands were, from any cause, prior to March 3, 1887, erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made, it shall thereupon be the duty of the Attorney General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title prior to March 3, 1887, issued for such lands, and to restore the title thereof to the United States.

(Mar. 3, 1887, ch. 376, § 2, 24 Stat. 556.)

### § 896. Erroneous cancellation of bona fide entries corrected

If, in the adjustment of said grants, it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public-land laws: *Provided*, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: *And provided also*, That he did not voluntarily abandon said original entry: *And provided further*, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public-land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

(Mar. 3, 1887, ch. 376, § 3, 24 Stat. 557.)

### § 897. Patents to purchasers from railroads; purchase money

As to all lands, except those mentioned in section 896 of this title, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land of-

fice, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney General shall cause suit or suits to be brought against such company for the said amount: *Provided*, That nothing in sections 894 to 899 of this title shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase money therefor from the grantee company, less the amount paid to the United States by such company as by said sections required: *And provided*, That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of said sections, nor shall said sections be construed as a declaration of forfeiture of any portion of any land grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions. *Provided further*, That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay to the Government a sum equal to the difference between the portion of the purchase price so paid and the Government price, and in such case the amount demanded from the company shall be the amount paid to it by such purchaser.

(Mar. 3, 1887, ch. 376, § 4, 24 Stat. 557; Feb. 12, 1896, ch. 18, 29 Stat. 6.)

### § 898. Rights of purchasers from railroads of coterminous lands not within grants

Where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: *Provided*, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the preemption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said preemption and homestead claimants shall be permitted to perfect their proofs and entries and receive patents therefor: *Provided further*, That this section shall not apply to lands settled upon subsequent to the 1st day of December, 1882, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

(Mar. 3, 1887, ch. 376, § 5, 24 Stat. 557.)

### § 899. Limitation of quantity to be conveyed

No more lands shall be certified or conveyed to any State or to any corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which such State, corporation, or individual would be rightfully entitled.

(Mar. 3, 1887, ch. 376, § 7, 24 Stat. 558.)

### § 900. Suits to cancel patents to lands erroneously issued under railroad or wagon-road grants

Suits by the United States to vacate and annul any patent to lands erroneously issued under a railroad or wagon-road grant shall only be brought within six years after the date of the issuance of such patents. But no patent to any lands held by a bona fide purchaser shall be vacated or annulled, but the right and title of such purchaser is hereby confirmed: *Provided*, That no suit shall be brought or maintained, nor shall recovery be had for lands or the value thereof, that were certified or patented in lieu of other lands covered by a grant which were lost or relinquished by the grantee in consequence of the failure of the Government or its officers to withdraw the same from sale or entry.

(Mar. 2, 1896, ch. 39, § 1, 29 Stat. 42.)

### § 901. Claims of bona fide purchasers; establishment of rights

If any person claiming to be a bona fide purchaser of any lands erroneously patented or certified shall present his claim to the Secretary of the Interior prior to the institution of a suit to cancel a patent or certification, and if it shall appear that he is a bona fide purchaser, the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the certification was made, for the value of said land, which in no case shall be more than the minimum Government price thereof, and the title of such claimant shall stand confirmed. An adverse decision by the Secretary of the Interior on the bona fides of such claimant shall not be conclusive of his rights, and if such claimant, or one claiming to be a bona fide purchaser, but who has not submitted his claim to the Secretary of the Interior, is made a party to such suit, and if found by the court to be a bona fide purchaser, the court shall decree a confirmation of the title, and shall render a decree in behalf of the United States against the patentee, corporation, company, person, or association of persons for

whose benefit the certification was made for the value of the land as hereinbefore provided. Any bona fide purchaser of lands patented or certified to a railroad company, and who is not made a party to such suit, and who has not submitted his claim to the Secretary of the Interior, may establish his right as such bona fide purchaser in any United States court having jurisdiction of the subject matter, or at his option, as prescribed in sections 896 and 897 of this title.

(Mar. 2, 1896, ch. 39, § 2, 29 Stat. 43.)

**§ 902. Cancellation; investigation before suit**

If at any time prior to the institution of suit by the Attorney General to cancel any patent or certification of lands erroneously patented or certified a claim or statement is presented to the Secretary of the Interior by or on behalf of any person or persons, corporation or corporations, claiming that such person or persons, corporation or corporations, is a bona fide purchaser or are bona fide purchasers of any patented or certified land by deed or contract or otherwise, from or through the original patentee or corporation to which patent or certification was issued, no suit or action shall be brought to cancel or annul the patent or certification for said land until such claim is investigated in said Department of the Interior; and if it shall appear that such person or corporation is a bona fide purchaser as aforesaid, or that such persons or corporations are such bona fide purchasers, then no such suit shall be instituted and the title of such claimant or claimants shall stand confirmed; but the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the patent was issued or certification was made for the value of the land as hereinbefore specified.

(Mar. 2, 1896, ch. 39, § 3, 29 Stat. 43.)

**§ 903. Relief of settlers on lands granted in aid of wagon roads**

The provision of section 888 of this title and all statutes amendatory thereof or supplementary thereto, including sections 894 to 899 of this title, as modified or supplemented by sections 900 to 902 of this title, shall apply to grants of land in aid of the construction of wagon roads.

(July 1, 1902, ch. 1386, 32 Stat. 733.)

**§ 904. Forfeiture of unearned grants; restoration to public domain**

There is forfeited to the United States, and the United States resumes the title thereto, all lands granted prior to September 29, 1890, to any State or to any corporation to aid in the construction of a railroad opposite to and coterminous with the portion of any such railroad not on that date completed, and in operation, for the construction or benefit of which such lands were granted; and all such lands are declared to be a part of the public domain: *Provided*, That sections 904 to 907 of this title shall not be construed as forfeiting the right-of-way or station grounds of any railroad company granted prior to September 29, 1890.

(Sept. 29, 1890, ch. 1040, § 1, 26 Stat. 496.)

**§ 905. Homestead entries on forfeited lands**

All persons who, on September 29, 1890, were actual settlers in good faith on any of the lands forfeited by section 904 of this title and were otherwise qualified, on making due claim on said lands under the homestead law within six months after the date of the promulgation by the Commissioner of the General Land Office of the instructions to the officers of the local land offices, for their direction in the disposition of said lands, shall be entitled to a preference right to enter the same under the provisions of the homestead law and sections 904 to 907 of this title, and shall be regarded as such actual settlers from the date of actual settlement or occupation; and any person who prior to September 29, 1890, has not had the benefit of the homestead or preemption law, or who has failed from any cause to perfect the title to a tract of land theretofore entered by him under either of said laws, may make a second homestead entry under the provisions of sections 904 to 907 of this title. The Secretary of the Interior shall make such rules as will secure to such actual settlers these rights: *Provided*, That nothing herein shall extend any time or enlarge any rights given by sections 904 to 907 of this title to any railroad company.

(Sept. 29, 1890, ch. 1040, § 2, 26 Stat. 496; Feb. 18, 1891, ch. 244, 26 Stat. 764.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Office of Commissioner of General Land Office abolished and functions transferred to Secretary of the Interior, or that officer as he may designate, by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. See note set out under section 1 of this title.

**§ 906. Purchase by bona fide purchasers from grantees; removal of crops and improvements**

In all cases where persons being citizens of the United States, or who have declared their intentions to become such, in accordance with the naturalization laws of the United States, are in possession of any of the lands affected by any such grant and resumed by and restored to the United States, under deed, written contract with, or license from, the State or corporation to which such grant was made, or its assignees, executed prior to January 1, 1888, or where persons may have settled said lands with bona fide intent to secure title thereto by purchase from the State or corporation when earned by compliance with the conditions or requirements of the granting Acts of Congress they shall be entitled to purchase the same from the United States, in quantities not exceeding three hundred and twenty acres to any one such person, at the rate of $1.25 per acre, at any time prior to January 1,

1899, and on making said payments to receive patents therefor, and where any such person in actual possession of any such lands and having improved the same prior to the 1st day of January, 1890, under deed, written contract, or license as aforesaid, or his assignor, has made partial or full payments to said railroad company prior to said date, on account of the purchase price of said lands from it, on proof of the amount of such payments he shall be entitled to have the same, to the extent and amount of $1.25 per acre, if so much has been paid, and not more, credited to him on account of and as part of the purchase price herein provided to be paid the United States for said lands, or such persons may elect to abandon their purchases and make claim on said lands under the homestead law and as provided in section 905 of this title: *Provided*, That in all cases where parties, persons, or corporations, with the permission of such State or corporation, or its assignees, are in the possession of and have made improvements upon any of the lands resumed and restored, and are not entitled to enter the same under the provisions of sections 904 to 907 of this title, such parties, persons, or corporations shall have six months in which to remove any growing crop, and within which time they shall also be entitled to remove all buildings and other movable improvements from said lands: *Provided further*, That the provisions of this section shall not apply to any lands situated in the State of Iowa on which any person in good faith has made or asserted the right to make a preemption or homestead settlement: *And provided further*, That nothing in sections 904 to 907 of this title contained shall be construed as limiting the rights granted to purchasers or settlers by sections 894 to 899 of this title, or as repealing, altering, or amending said sections, nor as in any manner affecting any cause of action existing in favor of any purchaser against his grantor for breach of any covenants of title.

Actual residence upon the lands by persons claiming the right to purchase the same shall not be required where such lands have been fenced, cultivated, or otherwise improved by such claimants, and such persons shall be permitted to purchase two or more tracts of such lands by legal subdivisions, whether contiguous or not, but not exceeding three hundred and twenty acres in the aggregate.

Nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof.

(Sept. 29, 1890, ch. 1040, § 3, 26 Stat. 496; Feb. 18, 1891, ch. 244, 26 Stat. 764; June 25, 1892, ch. 133, 27 Stat. 59; Jan. 31, 1893, ch. 54, 27 Stat. 427; Dec. 12, 1893, ch. 1, 28 Stat. 15; Jan. 23, 1896, ch. 8, 29 Stat. 4; Feb. 18, 1897, ch. 250, 29 Stat. 535.)

### § 907. Rights of original grantees to forfeited lands

No lands declared forfeited to the United States by sections 904 to 907 of this title shall by reason of such forfeiture inure to the benefit of any State or corporation to which lands may have been granted by Congress, except as therein otherwise provided; nor shall said sections be construed to enlarge the area of land originally covered by any such grant, or to confer any right upon any State, corporation, or person to lands which were excepted from such grant. Nor shall the moiety of the lands granted to any railroad company on account of a main and a branch line appertaining to uncompleted road, and forfeited by section 904 of this title, within the conflicting limits of the grants for such main and branch lines, when but one of such lines has been completed, inure by virtue of the forfeiture declared to the benefit of the completed line.

(Sept. 29, 1890, ch. 1040, § 6, 26 Stat. 498.)

### § 908. Deposits by railroad companies for costs of surveying and conveying unsurveyed lands granted

To enable the Secretary of the Interior to complete the adjustment of land grants made by Congress to aid in the construction of railroads, and to subject the lands granted to taxation by States, Territories, and municipal authorities, any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or corporation, or for its use and benefit, by any Act of Congress, is required, within ninety days from demand by the Secretary of the Interior, to deposit in a proper United States depository to the credit of the United States a sum sufficient to pay the cost of surveying, selecting, and conveying any of the unsurveyed lands granted to such company, or for its use and benefit, under any Act of Congress: *Provided further*, That the Secretary of the Interior shall determine and specify in the notice or demand to such company the amount of the required deposit, and may, in his discretion, demand a sum sufficient to cover the cost of the survey, selection, and conveyance of the entire area granted to any company, or for its use and benefit, then unsurveyed, or for such townships or fractional townships as he may prescribe and designate in the notice or demand to such company, as aforesaid: *And provided further*, That the amount deposited shall, subject to the rules and regulations of the Department of the Interior, under the direction of the Secretary of the Interior or such officer as he may designate, be disbursed for the surveying, including office and field work, selection, and conveyance of the lands granted and designated in the notice of the Secretary of the Interior, as aforesaid: *And provided further*, That in the event the money deposited by any railroad corporation under the provisions of sections 908 to 911 of this title shall exceed the cost of said surveys, the said excess thereof shall be repaid to the corporation so depositing the same, or to its assigns.

(June 25, 1910, ch. 406, § 1, 36 Stat. 834; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

APPROPRIATIONS

Effective July 1, 1935, the continuing appropriation provided for in this section was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225.

### § 909. Forfeiture of grant on failure to make deposit

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such corporation, or for its use and benefit, by any Act of Congress, shall, for ninety days from notice or demand by the Secretary of the Interior, as provided by section 908 of this title, neglect or refuse to deposit an amount sufficient to meet the expense of surveying, selecting, and conveying the unsurveyed lands granted to such company, or for its use and benefit, by any Act of Congress, and designated in the notice or demand by the Secretary of the Interior, as aforesaid, the rights, title, and interests of such company, and all those claiming by, through, or under it, in and to the unsurveyed lands designated in the notice of the Secretary, as aforesaid, shall cease and forfeit to the United States; and the Secretary of the Interior shall notify the Attorney General, who shall at once commence proceedings to declare the forfeiture and to restore the lands forfeited to the public domain.

(June 25, 1910, ch. 406, § 2, 36 Stat. 834.)

### § 910. Right to extend public surveys over lands granted, and other rights of United States, not affected

Sections 908 to 911 of this title shall not affect the right of the Secretary of the Interior to cause the public surveys to be extended over any lands granted to any railroad or corporation by any Act of Congress in the manner on June 25, 1910, otherwise provided by law, nor shall any claim, right, interest, or demand of the Government of the United States be waived or annulled by the provisions thereof: *Provided*, That all granted lands surveyed under the provisions of said sections shall be subject to taxation by States, Territories, and municipal authorities, and the right of the Government to reimburse itself for the survey, selection, and conveyance of such lands otherwise provided by law shall remain in full force and effect.

(June 25, 1910, ch. 406, § 3, 36 Stat. 834.)

### § 911. Regulations

The Secretary of the Interior shall prescribe such rules and regulations as will be necessary to the carrying out of the provisions of sections 908 to 910 of this title.

(June 25, 1910, ch. 406, § 4, 36 Stat. 835.)

### § 912. Disposition of abandoned or forfeited railroad grants

Whenever public lands of the United States have been or may be granted to any railroad company for use as a right of way for its railroad or as sites for railroad structures of any kind, and use and occupancy of said lands for such purposes has ceased or shall hereafter cease, whether by forfeiture or by abandonment by said railroad company declared or decreed by a court of competent jurisdiction or by Act of Congress, then and thereupon all right, title, interest, and estate of the United States in said lands shall, except such part thereof as may be embraced in a public highway legally established within one year after the date of said decree or forfeiture or abandonment be transferred to and vested in any person, firm, or corporation, assigns, or successors in title and interest to whom or to which title of the United States may have been or may be granted, conveying or purporting to convey the whole of the legal subdivision or subdivisions traversed or occupied by such railroad or railroad structures of any kind as aforesaid, except lands within a municipality the title to which, upon forfeiture or abandonment, as herein provided, shall vest in such municipality, and this by virtue of the patent thereto and without the necessity of any other or further conveyance or assurance of any kind or nature whatsoever: *Provided*, That this section shall not affect conveyances made by any railroad company of portions of its right of way if such conveyance be among those which have been or may after March 8, 1922, and before such forfeiture or abandonment be validated and confirmed by any Act of Congress; nor shall this section affect any public highway on said right of way on March 8, 1922: *Provided further*, That the transfer of such lands shall be subject to and contain reservations in favor of the United States of all oil, gas, and other minerals in the land so transferred and conveyed, with the right to prospect for, mine, and remove same.

(Mar. 8, 1922, ch. 94, 42 Stat. 414.)

### § 913. Conveyance by land grant railroads of portions of rights of way to State, county, or municipality

All railroad companies to which grants for rights of way through the public lands have been made by Congress, or their successors in interest or assigns, are authorized to convey to any State, county, or municipality any portion of such right of way to be used as a public highway or street: *Provided*, That no such conveyance shall have the effect to diminish the right of way of such railroad company to a less width than 50 feet on each side of the center of the main track of the railroad as now established and maintained.

(May 25, 1920, ch. 197, 41 Stat. 621.)

### § 914. Omitted

CODIFICATION

Section, act June 18, 1874, ch. 305, 18 Stat. 80, provided for issuance of patents for lands granted State of Oregon prior to June 18, 1874, upon certificate of Governor that wagon roads, in aid of which lands were granted, had been built.

## CHAPTER 21A—FORFEITURE OF NORTHERN PACIFIC RAILROAD INDEMNITY LAND GRANTS

### §§ 921 to 929. Omitted

CODIFICATION

Section 921, act June 25, 1929, ch. 41, § 1, 46 Stat. 41, related to forfeiture of any and all lands within indemnity limits of land grants to the Northern Pacific Railroad.

Section 922, act June 25, 1929, ch. 41, § 2, 46 Stat. 42, related to forfeiture of all unsatisfied indemnity selection rights.

Section 923, act June 25, 1929, ch. 41, § 3, 46 Stat. 42, related to effect of provisions of this chapter on various prior statutory provisions affecting the railroad.

Section 924, act June 25, 1929, ch. 41, § 4, 46 Stat. 42, related to effect of provisions of this chapter on title to rights of way actually in use by railroad.

Section 925, act June 25, 1929, ch. 41, § 5, 46 Stat. 42, authorized Attorney General to institute and prosecute all suits affecting title to lands.

Section 926, act June 25, 1929, ch. 41, § 6, 46 Stat. 43, related to restitution by railroads of lands which were not earned or erroneously credited.

Section 927, act June 25, 1929, ch. 41, § 7, 46 Stat. 43, related to jurisdiction of suits.

Section 928, act June 25, 1929, ch. 41, § 8, 46 Stat. 44, related to reports and recommendations to Congress concerning final determinations in such actions.

Section 929, act June 25, 1929, ch. 41, § 9, 46 Stat. 44, related to withholding of approval of adjustments of land grants pending final determination of actions.

## CHAPTER 22—RIGHTS-OF-WAY AND OTHER EASEMENTS IN PUBLIC LANDS


Sec.
931. Navigable rivers as public highways.
931a. Authority of Attorney General to grant easements and rights-of-way to States, etc.
931b. Repealed.
931c. Permits, leases, or easements; authorization to grant; payment; limitation.
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934. Right of way through public lands granted to railroads.
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936. Condemnation of private land.
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942–1. Rights of way in Alaska; railroad rights of way; reservations; water transportation connections; State title to submerged lands; Federal repossession as trustee; ''navigable waters'' defined; posting schedules of rates; changes in rates.
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953. Declaratory statement as to reservoirs.
954. Survey; map of reservoirs.
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957. Right of way to electric power companies.
958. Rights of way for wagon roads or railroads.
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971. Bathhouses, hotels, etc., adjacent to mineral, medicinal, etc., springs on public lands.
971a. Alaskan lands within highway, telephone, and pipeline withdrawals; disposal; amendment of land description of claim or entry on adjoining lands.
971b. Sale of restored Alaskan lands; preference rights; consent of Federal agency.
971c. Utilization or occupancy of Alaskan easements; consent of agency.
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971e. Definition of restored Alaskan lands.
975 to 975g. Repealed.


### § 931. Navigable rivers as public highways

All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and, in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

(R.S. § 2476.)

CODIFICATION

R.S. § 2476 derived from acts May 18, 1796, ch. 29, § 9, 1 Stat. 468; Mar. 3, 1803, ch. 27, § 17, 2 Stat. 235.

### § 931a. Authority of Attorney General to grant easements and rights-of-way to States, etc.

The Attorney General, whenever he deems it advantageous to the Government and upon such terms and conditions as he deems advisable, is authorized on behalf of the United States to grant to any State, or any agency or political subdivision thereof, easements in and rights-of-way over lands belonging to the United States which are under his supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Attorney General deems necessary or desirable, is ceded to such State. The Attorney General is authorized to accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as he may deem necessary or desirable over the land so acquired.

(May 9, 1941, ch. 94, 55 Stat. 183.)

### § 931b. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act July 24, 1946, ch. 596, § 7, 60 Stat. 643, authorized Secretary of War to grant easements and rights-of-way to States, etc. See section 2668 of Title 10, Armed Forces.

### § 931c. Permits, leases, or easements; authorization to grant; payment; limitation

The head of any department or agency of the Government of the United States having jurisdiction over public lands and national forests, except national parks and monuments, of the United States is authorized to grant permits, leases, or easements, in return for the payment of a price representing the fair market value of such permit, lease, or easement, to be fixed by such head of such department or agency through appraisal, for a period not to exceed thirty years from the date of any such permit, lease, or easement to States, counties, cities, towns, townships, municipal corporations, or other public agencies for the purpose of constructing and maintaining on such lands public buildings or other public works. In the event such lands cease to be used for the purpose for which such permit, lease, or easement was granted, the same shall thereupon terminate.

(Sept. 3, 1954, ch. 1255, § 1, 68 Stat. 1146.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

EXISTING RIGHTS-OF-WAY

Provisions of section 706(a) of Pub. L. 94–579, except as pertaining to rights-of-way, not to be construed as affecting the authority of the Secretary of Agriculture under this section, see section 706(b) of Pub. L. 94–579, set out as a note under section 1701 of this title.

### § 931d. Additional authority of department or agency head

The authority conferred by section 931c of this title shall be in addition to, and not in derogation of any authority heretofore conferred upon the head of any department or agency of the Government of the United States to grant permits, leases, easements, or rights-of-way.

(Sept. 3, 1954, ch. 1255, § 2, 68 Stat. 1146.)

### § 932. Repealed. Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793

Section, R.S. § 2477, authorized rights of way for construction of highways over public lands not reserved for public uses.

EFFECTIVE DATE OF REPEAL

Section 706(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

REGULATIONS AFFECTING RIGHTS-OF-WAY

Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 108], Sept. 30, 1996, 110 Stat. 3009–181, 3009–200, provided that: "No final rule or regulation of any agency of the Federal Government pertaining to the recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477 ([former] 43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress subsequent to the date of enactment of this Act [Sept. 30, 1996]."

### § 933. Repealed. Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 641

Section, act July 5, 1884, ch. 214, § 6, 23 Stat. 104, related to powers of Secretary of War to permit extension of roads across military reservations, landing of ferries, erection of bridges, and driving of livestock. See sections 4777 and 9777 of Title 10, Armed Forces.

### § 934. Right of way through public lands granted to railroads

The right of way through the public lands of the United States is granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed in amount twenty acres for each

station, to the extent of one station for each ten miles of its road.

(Mar. 3, 1875, ch. 152, § 1, 18 Stat. 482.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

**§ 935. Several roads through canyons**

Any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, on the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon or other public highway located therein on March 3, 1875, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile.

(Mar. 3, 1875, ch. 152, § 2, 18 Stat. 482.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

**§ 936. Condemnation of private land**

The legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provision shall not have been made, such condemnation may be made in accordance with section 3 of the act entitled ''An Act to amend an Act entitled 'An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July 1, 1862,' '' approved July 2, 1864 [43 U.S.C. 942–3].

(Mar. 3, 1875, ch. 152, § 3, 18 Stat. 482.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

**§ 937. Filing profile of road; forfeiture of rights**

Any railroad company desiring to secure the benefits of sections 934 to 939 of this title, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

(Mar. 3, 1875, ch. 152, § 4, 18 Stat. 483; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of sec-

tion 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 938. Lands excepted

Sections 934 to 939 of this title shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands especially reserved from sale, unless such right of way shall be provided for by treaty-stipulation or by Act of Congress passed prior to March 3, 1875.

(Mar. 3, 1875, ch. 152, § 5, 18 Stat. 483.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 939. Alteration, amendment, or repeal

Congress reserves the right at any time to alter, amend, or repeal sections 934 to 939 of this title, or any part thereof.

(Mar. 3, 1875, ch. 152, § 6, 18 Stat. 483.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 940. Forfeiture of rights where railroad not constructed in five years after location

Each and every grant of right of way and station grounds made prior to February 25, 1909, to any railroad corporation under sections 934 to 939 of this title, where such railroad had not been constructed and the period of five years next following the location of said road, or any section thereof, had on that date expired, is declared forfeited to the United States, to the extent of any portion of such located line then remaining unconstructed, and the United States resumes the full title to the lands covered thereby free and discharged from such easement, and the forfeiture declared shall, without need of further assurance or conveyance, inure to the benefit of any owner or owners of land conveyed by the United States prior to such date subject to any such grant of right of way or station grounds: *Provided*, That no right of way on which construction was progressing in good faith on February 25, 1909, shall be in any wise affected, validated, or invalidated, by the provisions of this section.

(June 26, 1906, ch. 3350, 34 Stat. 482; Feb. 25, 1909, ch. 191, 35 Stat. 647.)

### § 941. Railroad stations on rights of way granted

All railroad companies operating railroads through the Territories of the United States over a right of way obtained under any grant or Act of Congress giving to said railroad companies the right of way over the public lands of the United States shall be required to establish and maintain passenger stations and freight depots at or within one-fourth of a mile of the boundary limits of all town sites established prior to August 8, 1894, in said Territories on the line of said railroads by authority of the Interior Department.

(Aug. 8, 1894, ch. 236, § 1, 28 Stat. 263.)

### § 942. Omitted

CODIFICATION

Section, act Aug. 8, 1894, ch. 236, § 2, 28 Stat. 263, required railroad companies to establish within three months after Aug. 8, 1894, passenger and freight stations in all towns.

### § 942–1. Rights of way in Alaska; railroad rights of way; reservations; water transportation connections; State title to submerged lands; Federal repossession as trustee; "navigable waters" defined; posting schedules of rates; changes in rates

The right of way through the lands of the United States in Alaska is granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may on and after May 14, 1898, file for record with the Secretary of the Interior a copy of its articles of incorporation and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided*, That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or

of the lands granted: *Provided further*, That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands granted shall under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided*, That nothing in sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16 contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of the Territory of Alaska, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may on and after May 14, 1898, be erected out of said Territory. The term ''navigable waters,'' as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark. All charges for the transportation of freight and passengers on railroads in Alaska shall be printed and posted as required by section 10762[1] of title 49, and such rates shall be subject to revision and modification by the Secretary of the Interior.

(May 14, 1898, ch. 299, § 2, 30 Stat. 409.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

Section 10762 of title 49, referred to in text, was omitted in the general amendment of subtitle IV of Title 49, Transportation, by Pub. L. 104–88, title I, § 102(a), Dec. 29, 1995, 109 Stat. 804. Previously, ''section 10762 of title 49'' was substituted in text for ''section 6 of an Act to regulate commerce as amended on March second, eighteen hundred and eighty-nine [49 U.S.C. 6]'' on authority of Pub. L. 95–473, § 3(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV of Title 49.

Section was formerly classified to section 411 of Title 48, Territories and Insular Possessions.

SHORT TITLE

Sections 942–1 to 942–9 of this title are popularly known as the ''Alaska Right of Way Act''.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959. 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

[1] See References in Text note below.

## § 942–2. Rights of several roads through canyons

Any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided*, That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers and wharfage.

(May 14, 1898, ch. 299, § 3, 30 Stat. 410.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

CODIFICATION

Section was formerly classified to section 412 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 942–3. Condemnation of land

Where any company, the right of way to which is granted by sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in the following manner: In case the owner or claimant of such lands or premises and such company can not agree as to the damages, the amount shall be determined by the appraisal of three disinterested commissioners, who may be appointed upon application by any party to any judge of a court of record in Alaska; and said commissioners, in their assessments of damages, shall appraise such premises at what would have been the value thereof if the road had not been built; and upon return into court of such appraisement, and upon the payment to the clerk thereof of the amount so awarded by the commissioners for the use and benefit of the owner thereof, said premises shall be deemed to be taken by said company, which shall thereby acquire full title to the same for the purposes aforesaid. And either party feeling aggrieved by said assessment may, within thirty days, file an appeal therefrom, and demand a jury of twelve men to estimate the damage sustained; but such appeal shall not interfere with the rights of said company to enter upon the premises taken, or to do any act necessary in the construction of its road. And said party appealing shall give bonds with sufficient surety or sureties for the payment of any costs that may arise upon such appeal. And in case the party appealing does not obtain a more favorable verdict, such party shall pay the whole cost incurred by the appellee, as well as its own. And the payment into court for the use of the owner of claimant, of a sum equal to that finally awarded shall be held to vest in said company the title of said land, and the right to use and occupy the same for the construction, maintaining and operating of the road of said company. And in case any of the lands to be taken as aforesaid shall be held by any person residing without the Territory, or subject to any legal disability, the court may appoint a proper person who shall give bonds with sufficient surety or sureties, for the faithful execution of his trust, and who may represent in court the person disqualified or absent as aforesaid, when the same proceeding shall be had in reference to the appraisement of the premises to be taken, and with the same effect as has been already described. And the title of the company to the land taken by virtue of this section shall not be affected nor impaired by reason of any failure by any guardian to discharge faithfully his trust. And in case it shall be necessary for the said company to enter upon lands which are unoccupied, and of which there is no apparent owner or claimant, it may proceed to take and use the same for the purpose of its said railroad, and may institute proceedings in the manner described for the purpose of ascertaining the value of, and acquiring a title to, the same; and the court may determine the kind of notice to be served on such owner or owners, and may in its discretion appoint an agent or guardian to represent such owner or owners in case of his or their incapacity or nonappearance. But in case no claimant shall appear within six years from the time of the opening of said road across any land, all claims to damages against said company shall be barred. It shall be competent for the legal guardian of any infant, or any other person under guardianship, to agree with the said company as to damages sustained by reason of the taking of any lands of any such person under disability, as aforesaid, for the use as aforesaid; and upon such agreement being made, and approved by the court having supervision of the official acts of said guardian, and said guardian shall have full power to make and execute a conveyance thereof to the said company which shall vest the title thereto in the said company.

(July 2, 1864, ch. 216, § 3, 13 Stat. 357; May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

The first sentence of this section to the colon is from section 4 of act May 14, 1898, which, as originally enacted, provided that the condemnation might be made in accordance with section 3 of act July 2, 1864. The remainder of this section is from section 3 of act July 2, 1864, incorporated herein for convenience of reference. The proviso of section 4 of act May 14, 1898, is classified to section 942–4 of this title.

Section was formerly classified to section 413 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 942–4. Filing preliminary survey, map and profile of road

Any company mentioned in sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter to file the map and profile of definite location and such preliminary survey and plat shall during the said period of one year from the time of filing the same have the effect to render all the lands on which said preliminary survey and plat shall pass subject to the right of way mentioned in section 942–3 of this title.

(May 14, 1898, ch. 299, § 4, 30 Stat. 410.)

[1] See References in Text note below.

[1] See References in Text note below.

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section is comprised of the proviso of section 4 of act May 14, 1898. The remainder of section 4 of act May 14, 1898, is classified to section 942–3 of this title.

Section was formerly classified to section 414 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

EXTENSION OF TIME TO COMPLETE RAILROAD

The time of the Western Alaska Construction Company to comply with the provisions of this section and section 942–6 of this title, in acquiring and completing its railroad, was extended by act Apr. 9, 1904, ch. 1165, 33 Stat. 165.

### § 942–5. Filing map and profile of road section; forfeiture of rights; reversion of grant

Any company desiring to secure the benefits of sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16, shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with such officer as the Secretary of the Interior may designate of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed; and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to each right of way: *Provided*, That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action.

(May 14, 1898, ch. 299, § 5, 30 Stat. 410; 1946 Reorg. Plan. No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section was formerly classified to section 415 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

"Such officer as the Secretary of the Interior may designate" substituted in text for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 942–6. Rights of way for Alaskan wagon roads, wire rope, aerial, or other tramways; reservations; filing preliminary survey and map of location; alteration, amendment, repeal, or grant of equal rights; forfeiture of rights; reversion of grant; liens

The Secretary of the Interior is authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in Alaska, not to exceed one hundred feet in width, and ground for station and other necessary purposes not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said district for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at $1.25 per acre, such lands when

[1] See References in Text note below.

located at or near tide water not to extend more than forty rods in width along the shore line and the title thereto to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: *Provided*, That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: *Provided further*, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than $500 per mile: *Provided*, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the Interior shall decline to grant such right of way, if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in Alaska be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of $500 per mile has been actually expended in constructing such road: and all persons are prohibited from collecting or attempting to collect toll over any wagon road in Alaska, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be made possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: *Provided*, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than $50 nor more than $500, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

Any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this section that may prior to May 14, 1898, have constructed not less than one mile of road, at a cost of not less than $500 per mile, or one-half mile of tramway at a cost of not less than $500, shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this section over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. If any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be cancelled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void, without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

All mortgages executed by any company acquiring a right of way under sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16, upon any portion of its road that may be constructed in Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the Territory of Alaska and in the office of the secretary of the State or Territory wherein such company is organized. All lawful claims of laborers, contractors, subcontractors, or materialmen, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien.

(May 14, 1898, ch. 299, §6, 30 Stat. 411.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, §706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in third par., were repealed by Pub. L. 94–579, title VII, §§703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section was formerly classified to section 416 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan.

[1] See References in Text note below.

3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 399, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

### § 942–7. Military park, Indian or other reservation

Sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16 shall not apply to any lands within the limits of any military park, Indian, or other reservation unless such right of way shall be provided for by Act of Congress.

(May 14, 1898, ch. 299, § 7, 30 Stat. 412.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section was formerly classified to section 417 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 942–8. Reservation of right of alteration, amendment, or repeal; assignment of right of way

Congress reserves the right at any time to alter, amend, or repeal sections 687a, 687a–2 to 687a–5,[1] and 942–1 to 942–9 of this title and sections 607a and 615a of title 16 or any part thereof; and the right of way herein authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where within ninety days after May 14, 1898, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road, or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road, or tramway, prior to January 21, 1898, the rights to inure hereunder shall, if the terms of said sections are complied with as to such railroad, wagon road, or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right-of-way or other privilege of said sections the person, company, or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

(May 14, 1898, ch. 299, § 8, 30 Stat. 412.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Sections 687a and 687a–2 to 687a–5 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, §§ 703(a), 704(a), Oct. 21, 1976, 90 Stat. 2789, 2792.

CODIFICATION

Section was formerly classified to section 418 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 942–9. Map location of road

The map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

(May 14, 1898, ch. 299, § 9, 30 Stat. 413.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

CODIFICATION

Section was formerly classified to section 419 of Title 48, Territories and Insular Possessions.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 943. Right of way for railroads; reserved lands in Minnesota

All lands in the State of Minnesota described in and withdrawn from sale by the proclamations of the President of the United States for the reason that said lands would be required for or subject to flowage in the construction of dams, reservoirs, and other works proposed to be

[1] See References in Text note below.

[1] See References in Text note below.

erected for the improvement of the navigation of the Mississippi River and certain of its tributaries, are declared to be, and to have been at all times prior to February 27, 1901, subject to the provisions of sections 934 to 939 of this title as fully, effectually, and to the same extent as though said lands had not been described in said proclamations, or withdrawn from sale thereby, but had remained with the body of public lands subject to private entry and sale: *Provided, however*, That any and all parts of said lands acquired by any railroad company under said sections shall at all times be subject to the right of flowage which at any time may become necessary in the construction or maintenance of dams, reservoirs, or other works which may be constructed or erected by or under the authority of the United States for the improvement of the navigation of the Mississippi River and its tributaries: *Provided further*, That the railroad companies availing themselves of this section shall, in addition to filing the maps required by law on February 27, 1901, to be filed, also file maps of definite location with elevation of rail of their lines of railroad over said water-reserve lands in the office of the Secretary of the Army; and no location shall be permitted which takes for right of way or stations or interferes with submergence of lands needed for the use of the reservoir system, existing on February 27, 1901, or in the construction of dams or other works, or any proposed or probable extension of the same, or which will obstruct or increase the cost of the present or prospective reservoir system: *Provided further*, That the plan for the location and construction of any such railway, or any part thereof, shall be first submitted to the Secretary of the Army and approved by him and by the Chief of Engineers of the United States Army.

(Feb. 27, 1901, ch. 614, 31 Stat. 815; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 944. Right of way in Oklahoma and Arizona

Where, under sections 934 to 939 of this title, or under special Acts of Congress, or under the laws of the former Territories of Oklahoma and Arizona, railroads have been constructed and were on June 26, 1906, in operation in Oklahoma or Arizona which passed through any of the lands theretofore reserved for said Territories, such lands shall be disposed of subject to such railroad right or easement, but only to the extent of the right of way conferred by the said sections for such railroad purposes.

(June 26, 1906, ch. 3548, 34 Stat. 481.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 945. Reservation in patents of right of way for ditches or canals

In all patents for lands taken up after August 30, 1890, under any of the land laws of the United States or on entries or claims validated by this Act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

(Aug. 30, 1890, ch. 837, § 1, 26 Stat. 391.)

REFERENCES IN TEXT

The land laws of the United States, referred to in text, are classified generally to this title.

This Act, referred to in text, is act Aug. 30, 1890, ch. 837, 26 Stat. 371, which enacted sections 212 and 945 of this title, section 861a of former Title 10, The Army, section 446 of Title 16, Conservation, sections 497, 601, and 651 of former Title 31, Money and Finance, section 887 of Title 33, Navigation and Navigable Waters, section 120 of former Title 40, Public Buildings, Property, and Works, and amended sections 321 and 662 of this title. For complete classification of this Act to the Code, see Tables.

### § 945a. Compensation for rights-of-way for certain reclamation projects

Notwithstanding the existence of any reservation of right-of-way to the United States for canals under section 945 of this title, or any State statute, the Secretary of the Interior shall pay just compensation, including severance damages, to the owners of private land utilized for ditches or canals in connection with any reclamation project, or any unit or any division of a reclamation project, provided the construction of said ditches or canals commenced after January 1, 1961, and such compensation shall be paid notwithstanding the execution of any agreements or any judgments entered in any condemnation proceeding, prior to September 2, 1964.

(Pub. L. 88–561, § 1, Sept. 2, 1964, 78 Stat. 808; Pub. L. 89–624, Oct. 4, 1966, 80 Stat. 873.)

AMENDMENTS

1966—Pub. L. 89–624 inserted ''to the United States'' and ''or any State statute,''.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 3 of Pub. L. 88–561 as added by Pub. L. 89–624 provided that: ''The amendment made by this Act [enacting section 945b of this title and amending this section] shall apply to any condemnation action pending in any district court of the United States on the date of enactment of this Act [Oct. 4, 1966] and to any such action instituted after that date.''

### § 945b. Jurisdiction; procedure

Jurisdiction of an action brought by the United States or the landowner for the determination of just compensation pursuant to section 945a of this title is hereby conferred on the United States district court in the district in which any such land is situated, without limitation to the amount of compensation sought by such suit. The procedure for such an action shall be governed by the Federal Rules of Civil Procedure for the condemnation of real and personal property.

(Pub. L. 88–561, § 2, as added Pub. L. 89–624, Oct. 4, 1966, 80 Stat. 874.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure for the condemnation of real and personal property, referred to in text, means rule 71A of the Federal Rules of Civil Procedure, set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section applicable to Federal condemnation actions pending in any district court of the United States on or after Oct. 4, 1966, see section 3 of Pub. L. 88–561, as added by Pub. L. 89–624, set out as an Effective Date of 1966 Amendment note under section 945a of this title.

### § 946. Right of way to canal ditch companies and irrigation or drainage districts for irrigation or drainage purposes and operation and maintenance of reservoirs, canals, and laterals

The right of way through the public lands and reservations of the United States is granted to any canal ditch company, irrigation or drainage district formed for the purpose of irrigation or drainage, and duly organized under the laws of any State or Territory, and which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation or, if not a private corporation, a copy of the law under which the same is formed and due proof of its organization under the same, to the extent of the ground occupied by the water of any reservoir and of any canals and laterals and fifty feet on each side of the marginal limits thereof, and, upon presentation of satisfactory showing by the applicant, such additional rights of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals; also the right to take from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch: *Provided*, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the department of the Government having jurisdiction of such reservation; and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories.

(Mar. 3, 1891, ch. 561, § 18, 26 Stat. 1101; Mar. 4, 1917, ch. 184, § 1, 39 Stat. 1197; May 28, 1926, ch. 409, 44 Stat. 668.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

AMENDMENTS

1926—Act May 28, 1926, substituted ''canal ditch company, irrigation or drainage district'' for ''canal or ditch company or drainage district'' and inserted ''or, if not a private corporation, a copy of the law under which the same is formed'' after ''articles of incorporation'' and '', and, upon presentation of satisfactory showing by the applicant, such additional right of way as the Secretary of the Interior may deem necessary for the proper operation and maintenance of said reservoirs, canals, and laterals'' after ''marginal limits thereof''.

1917—Act Mar. 4, 1917, inserted ''or drainage district,'' after ''any canal or ditch company,'' and ''or drainage,'' after ''for the purpose of irrigation''.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 947. Map; damages to settlers

Any canal or ditch company desiring to secure the benefits of sections 946 to 949 of this title shall, within twelve months after the location of ten miles of its canal, if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any canal, ditch, or reservoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

(Mar. 3, 1891, ch. 561, § 19, 26 Stat. 1102; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on*

*and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 948. Application to existing and future canals

The provisions of sections 946 to 949 of this title shall apply to all canals, ditches, or reservoirs, heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps therein provided for. If such ditch, canal, or reservoir has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior, and with the officer, as the Secretary of the Interior may designate, of the land office where said land is located, a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats filed before March 3, 1891, shall have the benefits of sections 946 to 949 of this title from the date of their filing, as though filed thereunder: *Provided*, That if any section of said canal or ditch shall not be completed within five years after the location of said section, the rights therein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture.

(Mar. 3, 1891, ch. 561, § 20, 26 Stat. 1102; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district lands offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 949. Use for canal or ditch only

Nothing in sections 946 to 949 of this title shall authorize such canal or ditch company to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch.

(Mar. 3, 1891, ch. 561, § 21, 26 Stat. 1102.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 950. Right of way to canal and ditch companies for irrigation purposes; additional grants

In addition to the rights of way granted by sections 946 to 949 of this title, and subject to the conditions and restrictions therein contained, the Secretary of the Interior is authorized to grant permits or easements for not to exceed five acres of ground adjoining the right of way at each of the locations, to be determined by the Secretary of the Interior, to be used for the erection thereon of dwellings or other buildings or corrals for the convenience of those engaged in the care and management of the works provided for by said sections: *Provided*, That this section shall not apply to lands within national forests.

(Mar. 1, 1921, ch. 93, 41 Stat. 1194.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 951. Right of way for water transportation, domestic purposes, or development of power

Rights of way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections 946 to 949 of this title may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation or drainage.

(May 11, 1898, ch. 292, § 2, 30 Stat. 404; Mar. 4, 1917, ch. 184, § 2, 39 Stat. 1197.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 952. Reservoir sites for water for livestock

Any person, livestock company, or transportation corporation engaged in breeding, grazing, driving, or transporting livestock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such livestock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes: *Provided*, That such reservoir shall not be fenced and shall be open to the free use of any person desiring to water animals of any kind.

The Secretary of the Interior, in his discretion, under such rules, regulations, and conditions as he may prescribe, upon application by such person, company, or corporation, may grant permission to fence such reservoirs in order to protect livestock, to conserve water, and to preserve its quality and conditions: *Provided*, That such reservoir shall be open to the free use of any person desiring to water animals of any kind; but any fence, erected under the authority hereof, shall be immediately removed on the order of the Secretary.

(Jan. 13, 1897, ch. 11, § 1, 29 Stat. 484; Mar. 3, 1923, ch. 219, 42 Stat. 1437.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 953. Declaratory statement as to reservoirs

Any person, livestock company, or corporation desiring to avail themselves of the provisions of sections 952 to 955 of this title shall file a declaratory statement in the United States land office in the district where the land is situated, which statement shall describe the land where such reservoir is to be or has been constructed; shall state what business such corporation is engaged in; specify the capacity of the reservoir in gallons, and whether such company, person, or corporation has filed upon other reservoir sites within the same county; and if so, how many.

(Jan. 13, 1897, ch. 11, § 2, 29 Stat. 484.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 954. Survey; map of reservoirs

At any time after the completion of such reservoir or reservoirs, which shall be constructed and completed within two years after filing such declaratory statement, such person, company, or corporation shall have the same accurately surveyed, as hereinafter provided, and shall file in the United States land office in the district in which such reservoir is located a map or plat showing the location of such reservoir, which map or plat shall be transmitted by the officer, as the Secretary of the Interior may designate, of said United States land office to the Secretary of the Interior and approved by him, and thereafter such land shall be reserved from sale by the Secretary of the Interior so long as such reservoir is kept in repair and water kept therein.

(Jan. 13, 1897, ch. 11, § 3, 29 Stat. 484; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 955. Amendment, alteration, or repeal

Congress may at any time amend, alter, or repeal sections 952 to 955 of this title.

(Jan. 13, 1897, ch. 11, § 4, 29 Stat. 484.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 956. Right of way for tramroads, canals, or reservoirs

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of the right of way through the public lands of the United States, not within the limits of any national forest, park, military or Indian reservation, for tramroads, canals, or reservoirs to the extent of the ground occupied by the water of the canals and reservoirs and fifty feet on each side of the marginal limits thereof, or fifty feet on each side of the center line of the tramroad, by any citizen or any association of citizens of the United States engaged in the business of mining or quarrying or of cutting timber and manufacturing lumber or for the purposes of furnishing water for domestic, public, and other beneficial uses.

(Jan. 21, 1895, ch. 37, § 1, 28 Stat. 635; May 11, 1898, ch. 292, § 1, 30 Stat. 404; Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 957. Right of way to electric power companies

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of right of way to the extent of twenty-five feet, together with the use of necessary ground, not exceeding forty acres, upon the public lands and national forests of the United States by any citizen or association of citizens of the United States for the purposes of generating, manufacturing, or distributing electric power.

(Jan. 21, 1895, ch. 37, § 2, as added May 14, 1896, ch. 179, 29 Stat. 120; amended Mar. 4, 1907, ch. 2907, 34 Stat. 1269.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

CODIFICATION

The words ''national forests'' substituted in text for ''forest reservations'' pursuant to act Mar. 4, 1907, which changed the designation of forest reserves to national forests.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 958. Rights of way for wagon roads or railroads

In the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any reservoir site when in his judgment the public interests will not be injuriously affected thereby.

(Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1233.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 959. Rights of way for electrical plants, etc.

The Secretary of the Interior is authorized and empowered, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forest and other reservations of the United States, and the Yosem-

ite, Sequoia, and General Grant national parks, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of the purposes herein named: *Provided*, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the Department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all permits given hereunder for telegraph and telephone purposes shall be subject to the provisions of title 65 of the Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: *And provided further*, That any permission given by the Secretary of the Interior under the provisions of this section may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park.

(Feb. 15, 1901, ch. 372, 31 Stat. 790.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Title 65 of the Revised Statutes of the United States, and amendments thereto, referred to in text, which consisted of R.S. §§ 5263 to 5269, was classified to sections 1 to 6 and 8 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and was repealed by act July 16, 1947, ch. 256, § 1, 61 Stat. 327.

CODIFICATION

Section, insofar as it relates to rights-of-way through public lands, forest, and reservations, and the Yosemite, Sequoia, and General Grant National Parks is also set out as section 79 of Title 16, Conservation, and insofar as it related to rights-of-way through national forests was set out as section 522 of Title 16 which was omitted from the Code.

GENERAL GRANT NATIONAL PARK ABOLISHED

Act Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43, which is classified to section 80a of Title 16, Conservation, abolished the General Grant National Park and added the lands to the Kings Canyon National Park as the General Grant grove section.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

## § 961.[1] Rights-of-way through public lands, Indian, and other reservations for power and communications facilities

The head of the department having jurisdiction over the lands be, and he is, authorized and empowered, under general regulations to be fixed by him, to grant an easement for rights-of-way, for a period not exceeding fifty years from the date of the issuance of such grant, over, across, and upon the public lands and reservations of the United States for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to the extent of two hundred feet on each side of the center line of such lines and poles and not to exceed four hundred feet by four hundred feet for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities, to any citizen, association, or corporation of the United States, where it is intended by such to exercise the right-of-way herein granted for any one or more of the purposes herein named: *Provided*, That such right-of-way shall be allowed within or through any Indian or any other reservation only upon the approval of the chief officer of the department under whose supervision or control such reservation falls, and upon a finding by him that the same is not incompatible with the public interest: *Provided further*, That all or any part of such right-of-way may be forfeited and annulled by declaration of the head of the department having jurisdiction over the lands for nonuse for a period of two years or for abandonment.

Any citizen, association, or corporation of the United States to whom there was issued, prior to March 4, 1911, a permit for any of the purposes specified herein under any existing law may obtain the benefit of this section upon the same terms and conditions as shall be required of citizens, associations, or corporations thereafter making application under the provisions of this section.

(Mar. 4, 1911, ch. 238, 36 Stat. 1253; May 27, 1952, ch. 338, 66 Stat. 95.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

[1] There is no section 960 in this title.

CODIFICATION

Act Mar. 4, 1911, as it applies to rights of way in national parks, national forests, military, and other reservations, is also classified to sections 5, 420, and 523 of Title 16, Conservation.

AMENDMENTS

1952—Act May 27, 1952, inserted reference to rights-of-way for radio, television, and other forms of communication, and increased from 40 feet to 400 feet the maximum width of rights-of-way for lines and poles.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 962. Right of way in Colorado and Wyoming to pipeline companies

The right of way through the public lands of the United States situate in the State of Colorado and in the State of Wyoming outside of the boundary lines of the Yellowstone National Park is granted to any pipe-line company or corporation formed for the purpose of transporting oils, crude or refined, which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by said pipe line and twenty-five feet on each side of the center line of the same; also the right to take from the public lands adjacent to the line of said pipe line, material, earth, and stone necessary for the construction of said pipe line.

(May 21, 1896, ch. 212, § 1, 29 Stat. 127.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SHORT TITLE

Sections 962 to 965 of this title are popularly known as the ''Oil Pipe Line Act''.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 963. Applications for Colorado and Wyoming pipeline right of way

Any company or corporation desiring to secure the benefits of sections 962 to 965 of this title shall, within twelve months after the location of ten miles of the pipeline, if the same be upon surveyed lands and if the same be upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its line, and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way.

(May 21, 1896, ch. 212, § 2, 29 Stat. 127; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 964. Limit of time for completion of Colorado and Wyoming pipelines; forfeiture

If any section of said pipe line shall not be completed within five years after the location of said section, the right granted in sections 962 to 965 of this title shall be forfeited, as to any incomplete section of said pipe line, to the extent that the same is not completed at the date of the forfeiture.

(May 21, 1896, ch. 212, § 3, 29 Stat. 127.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 965. Restriction on use of Colorado and Wyoming pipeline right of way

Nothing in sections 962 to 965 of this title shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care.

(May 21, 1896, ch. 212, § 4, 29 Stat. 127.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 966. Right of way in Arkansas to pipe-line companies

A right of way through the public lands of the United States in the State of Arkansas is granted for pipe-line purposes to any citizen of the United States or any company or corporation authorized by its charter to transport oil, crude or refined, or natural gas which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proof of organization under the same, to the extent of the ground occupied by the said pipe line and ten feet on each side of the center line of same.

(Apr. 12, 1910, ch. 155, § 1, 36 Stat. 296.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 967. Applications for Arkansas pipeline right of way

Any citizen of the United States, company, or corporation desiring to secure the benefits of sections 966 to 970 of this title shall within twelve months after the location of ten miles of the pipe line, if the same be upon surveyed land, and if the same be upon unsurveyed lands within twelve months after the survey thereof by the United States, file with the officer, as the Secretary of the Interior may designate, of the land office for the district where such land is located a map of its lines, and upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the plats in said office, and thereafter all such land over which such line shall pass shall be disposed of subject to such right of way.

(Apr. 12, 1910, ch. 155, § 2, 36 Stat. 296; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 968. Restriction on use of Arkansas pipeline right of way

Nothing in sections 966 to 970 of this title shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care.

(Apr. 12, 1910, ch. 155, § 3, 36 Stat. 296.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 969. Forfeiture of Arkansas pipeline right of way for nonuser, etc.

If any section of said pipe line shall not be completed within one year after the approval by the Secretary of the Interior of said section, or if any section of said pipe line shall be abandoned or shall not be used for a period of two years, the right of way granted in sections 966 to 970 of this title as to any uncompleted, abandoned, or unused section of said pipe line shall be forfeited to the extent that the same is not completed or is abandoned or unused at the date of the forfeiture, without further action or declaration on the part of the Government or any proceedings or judgment of any court.

(Apr. 12, 1910, ch. 155, § 4, 36 Stat. 296.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to*

*the issuance of rights-of-way over, upon, under and through the public lands and lands in the National Forest System.*

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 970. Forfeiture of Arkansas pipeline right of way for violation of antitrust law

If any citizen, company, or corporation taking advantage of the benefits of sections 966 to 970 of this title shall violate the Act of July 2, 1890, entitled ''An Act to protect trade and commerce against unlawful restraints and monopolies'', (commonly known as the Sherman antitrust act), or any amendment thereof, the right of way granted in sections 966 to 970 of this title shall be forfeited without further action or declaration on the part of the Government or any proceedings or judgment of any court.

(Apr. 12, 1910, ch. 155, § 5, 36 Stat. 296.)

REPEAL OF SECTION

*Section repealed by Pub. L. 94–579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.*

REFERENCES IN TEXT

Act of July 2, 1890, referred to in text, is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 insofar as applicable to the issuance of rights-of-way 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.

### § 971. Bathhouses, hotels, etc., adjacent to mineral, medicinal, etc., springs on public lands

The Secretary of the Interior, upon such terms and under such regulations as he may deem proper, may permit responsible persons or associations to use and occupy, for the erection of bathhouses, hotels, or other improvements for the accommodation of the public, suitable spaces or tracts of land near or adjacent to mineral, medicinal, or other springs which are located upon unreserved public lands or public lands which have been withdrawn for the protection of such springs: *Provided*, That permits or leases hereunder shall be for periods not exceeding twenty years.

(Mar. 3, 1925, ch. 458, 43 Stat. 1133.)

### § 971a. Alaskan lands within highway, telephone, and pipeline withdrawals; disposal; amendment of land description of claim or entry on adjoining lands

Upon revocation of a withdrawal for highways, telephone lines, or pipelines, in Alaska, the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary. Notwithstanding any statutory limitation on the area which may be included in an unpatented claim or entry, the Secretary may permit the amendment of the land description of a claim or entry on adjoining lands to include the restored lands.

(Aug. 1, 1956, ch. 848, § 1, 70 Stat. 898.)

CODIFICATION

This section was formerly classified to section 420 of Title 48, Territories and Insular Possessions.

### § 971b. Sale of restored Alaskan lands; preference rights; consent of Federal agency

The Secretary may sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining claims or entries and to owners of adjoining private lands. If such lands are under the jurisdiction of a Federal department or agency other than the Department of the Interior, any sale thereof shall be made only with the consent of such department or agency.

(Aug. 1, 1956, ch. 848, § 2, 70 Stat. 898.)

CODIFICATION

Section was formerly classified to section 420a of Title 48, Territories and Insular Possessions.

### § 971c. Utilization or occupancy of Alaskan easements; consent of agency

Lands in Alaska within an easement established under sections 971a to 971e of this title by the Secretary of the Interior may not be utilized or occupied without the permission of the Secretary, or an officer or agency designated by him. If the lands crossed by an easement established under sections 971a to 971e of this title are under the jurisdiction of a Federal department or agency other than the Department of the Interior, or of a State, Territory, or other government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit.

(Aug. 1, 1956, ch. 848, § 3, 70 Stat. 898.)

CODIFICATION

Section was formerly classified to section 420b of Title 48, Territories and Insular Possessions.

### § 971d. Effect on valid existing Alaskan rights

Nothing in sections 971a to 971e of this title shall affect adversely any valid existing rights.

(Aug. 1, 1956, ch. 848, § 4, 70 Stat. 898.)

CODIFICATION

Section was formerly classified to section 420c of Title 48, Territories and Insular Possessions.

### § 971e. Definition of restored Alaskan lands

For the purposes of sections 971a to 971e of this title, the words ''restored lands'' include, without limiting the meaning thereof, those lands at Big Delta and Tok Junctions that are withdrawn by public land orders numbered 808 and 975 and

that lie between the centerline of the Richardson and Glenn Highways and the land included within United States surveys 2727, 2728, 2770, 2771, 2772, 2773, 2774, 2723, 2724, 2725, and 2726.

(Aug. 1, 1956, ch. 848, § 5, as added Pub. L. 86–512, June 11, 1960, 74 Stat. 207.)

CODIFICATION

Section was formerly classified to section 420d of Title 48, Territories and Insular Possessions.

### §§ 975, 975a. Repealed. Pub. L. 97–468, title VI, § 615(a)(1), Jan. 14, 1983, 96 Stat. 2577

Section 975, acts Mar. 12, 1914, ch. 37, § 1, 38 Stat. 305; Apr. 10, 1926, ch. 114, 44 Stat. 239; Aug. 4, 1955, ch. 554, 69 Stat. 494; Nov. 1, 1978, Pub. L. 95–565, § 4(a), 92 Stat. 2399; Oct. 10, 1980, Pub. L. 96–423, § 15, 94 Stat. 1817, related to location, construction, and operation of Alaska Railroad and powers and duties of President in connection therewith, and security officers. Section was comprised of first and second paragraphs of section 1 of act Mar. 12, 1914. The first paragraph was included in the Act as originally enacted in 1914 and the second paragraph was added in 1980 by Pub. L. 96–423. Amendment of section 1 of act Mar. 12, 1914, by act Mar. 29, 1940, ch. 74, 54 Stat. 80, relating to Mount McKinley National Park, and providing for accommodations for visitors and residents, was set out as section 353a of Title 16, Conservation. Section was formerly classified to section 301 of Title 48, Territories and Insular Possessions.

Section 975a, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 307, related to telegraph and telephone lines in Alaska. Section was comprised of original second paragraph of section 1 of act Mar. 12, 1914. Section was formerly classified to section 302 of Title 48.

EFFECTIVE DATE OF REPEAL

Repeal effective on date of transfer of Alaska Railroad to State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(a) of Pub. L. 97–468.

RENTAL OF ALASKA RAILROAD LANDS; REPORT TO CONGRESS

Pub. L. 95–611, § 6, Nov. 8, 1978, 92 Stat. 3090, authorized the Secretary of Transportation to conduct an investigation and study to determine equitable rates to be charged for the rental of Alaska Railroad lands, required submission by the Secretary of a report on the results of such study to the Congress not later than one year after Nov. 8, 1978, and provided that, prior to 180 days after the receipt by Congress of such report, rental charges on lands rented by the Alaska Railroad were not to be increased by more than 100 per centum of the amount charged for such land on Jan. 1, 1977.

APPROPRIATIONS

Section 2 of act Mar. 12, 1914, which provided that the cost of the work authorized by sections 975 to 975g should not exceed $35,000,000, and that in executing the authority granted by those sections the President should not expend nor obligate the United States to expend more than that sum, and also appropriated the sum of $1,000,000 to be used for carrying out the provisions of those sections, to continue available until expended, was repealed by section 615(a)(1) of Pub. L. 97–468.

### § 975b. Repealed. Pub. L. 94–579, title VII, § 704(a), Oct. 21, 1976, 90 Stat. 2792

Section, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 307, authorized the President to withdraw, locate, and dispose of lands for town-site purposes along Alaskan railroad lines. Section was comprised of original fourth paragraph of act Mar. 12, 1914. Section was formerly classified to section 303 of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE OF REPEAL

Section 704(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 975c to 975g. Repealed. Pub. L. 97–468, title VI, § 615(a)(1), Jan. 14, 1983, 96 Stat. 2577

Section 975c, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 307, related to terminals, stations, and rights of way in Alaska. Section was comprised of part of the last paragraph of section 1 of act Mar. 12, 1914. Section was formerly classified to section 304 of Title 48, Territories and Insular Possessions.

Section 975d, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 307, required Alaskan patents to contain reserve for right of way. Section was comprised of part of the last paragraph of section 1 of act Mar. 12, 1914. Section was formerly classified to section 305 of Title 48.

Section 975e, act Mar. 12, 1914, ch. 37, § 3, 38 Stat. 307, related to disposition of proceeds of lease or sale of public lands in Alaska. Section was formerly classified to section 306 of Title 48.

Section 975f, act Mar. 12, 1914, ch. 37, § 1, 38 Stat. 307, related to authority of President as to Alaska Railroad, telegraphs, telephones, etc. Section was comprised of the third paragraph of section 1 of act Mar. 12, 1914. Section was formerly classified to section 307 of Title 48.

Section 975g, act Mar. 12, 1914, ch. 37, § 4, 38 Stat. 307, required officers, agents, etc., to make annual report as to Alaska Railroad, telegraphs, telephones, etc., to President for transmittal to Congress. Section was formerly classified to section 308 of Title 48.

EFFECTIVE DATE OF REPEAL

Repeal effective on date of transfer of Alaska Railroad to State [Jan. 5, 1985], pursuant to section 1203 of Title 45, Railroads, see section 615(a) of Pub. L. 97–468.

EXECUTIVE ORDER NO. 11107

Ex. Ord. No. 11107, Apr. 26, 1963, 28 F.R. 4225, which authorized the Secretary of the Interior to operate the Alaska Railroad and, subject to authority of the Interstate Commerce Commission, establish rates, was superseded by Ex. Ord. No. 12434, July 19, 1983, 48 F.R. 33229, formerly set out below.

EXECUTIVE ORDER NO. 12434

Ex. Ord. No. 12434, July 19, 1983, 48 F.R. 33229, related to the authority of the Secretary of Transportation to operate and administer the Alaska Railroad and to determine procedures for establishing rates for the Alaska Railroad, and to the authority of the Secretary of Transportation and Interstate Commerce Commission with respect to such rates. The Alaska Railroad was transferred to the State of Alaska on Jan. 5, 1985, and the State of Alaska has established the Alaska Railroad Corporation to manage and operate the Alaska Railroad.

## CHAPTER 23—GRANTS OF SWAMP AND OVERFLOWED LANDS

Sec.
981. Indemnity to States on sale of lands.
982. Grant to States to aid in construction of levees and drains.
983. Lists and plats of lands, for governors of States.
984. Legal subdivisions mostly wet and unfit for cultivation.
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Sec.
986. Selection of lands confirmed.
987. Lands to be certified to State within one year.
988. Act extended to Minnesota and Oregon.
989. Homestead entries by purchasers from Missouri of lands declared not to be swamp lands.
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991. Title of purchasers of unconfirmed lands in Arkansas confirmed.
992. Sale of erroneously designated water-covered areas in Arkansas.
993. Sale of lands in Louisiana; preference rights; application for purchase; appraisal; payment for land.
994. Sale of lands in Wisconsin.

### § 981. Indemnity to States on sale of lands

Upon proof by the authorized agent of the State, before the Secretary of the Interior or such officer as he may designate, that any of the lands purchased by any person from the United States, prior to March 2, 1855, were ''swamp lands'', within the true intent and meaning of the Act entitled ''An Act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits'', approved September 28, 1850, the purchase money shall be paid over to the State wherein said land is situate; and when the lands have been located by warrant or scrip, the said State shall be authorized to locate a like quantity of any of the public lands subject to entry, at $1.25 per acre, or less, and patents shall issue therefor. The decision of the Secretary or such officer shall be first approved by the Secretary of the Interior.

(R.S. § 2482; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act approved September 28, 1850, referred to in text, is act Sept. 28, 1850, ch. 84, 9 Stat. 519, which is not classified to the Code.

CODIFICATION

R.S. § 2482 derived from act Mar. 2, 1855, ch. 147, § 2, 10 Stat. 634, 635.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Office and Commissioner thereof and transferred functions of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 982. Grant to States to aid in construction of levees and drains

To enable the several States (but not including the States of Kansas, Nebraska, and Nevada) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein—the whole of the swamp and overflowed lands, made unfit thereby for cultivation, and remaining unsold on or after the 28th day of September, A.D. 1850, are granted and belong to the several States respectively, in which said lands are situated: *Provided*, *however*, That said grant of swamp and overflowed lands, as to the States of California, Minnesota, and Oregon, is subject to the limitations, restrictions and conditions hereinafter named and specified in this chapter, as applicable to said three last-named States respectively.

(R.S. § 2479.)

CODIFICATION

R.S. § 2479 derived from acts Sept. 28, 1850, ch. 84, §§ 1, 4, 9 Stat. 520; Mar. 12, 1860, ch. 5, § 1, 12 Stat. 3; Feb. 19, 1874, ch. 30, 18 Stat. 16.

GRANTS NOT TO EXTEND TO ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Land grant under Alaska Statehood provisions in lieu of grant of land under this section (declared not to extend to Alaska), see section 6(*l*) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

### § 983. Lists and plats of lands, for governors of States

It shall be the duty of the Secretary of the Interior, to make accurate lists and plats of all such lands, and transmit the same to the governors of the several States in which such lands may lie, and at the request of the governor of any State in which said swamp and overflowed lands may be, to cause patents to be issued to said State therefor, conveying to said State the fee simple of said land.

The proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the reclaiming said lands, by means of levees and drains.

(R.S. § 2480.)

CODIFICATION

R.S. § 2480 derived from act Sept. 28, 1850, ch. 84, § 2, 9 Stat. 519.

### § 984. Legal subdivisions mostly wet and unfit for cultivation

In making out lists and plats of the lands aforesaid all legal subdivisions, the greater part whereof is wet and unfit for cultivation, shall be included in said lists and plats, but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

(R.S. § 2481.)

CODIFICATION

R.S. § 2481 derived from act Sept. 28, 1850, ch. 84, § 3, 9 Stat. 519.

### § 985. Omitted

CODIFICATION

Section, R.S. § 2483, authorized the issuance of patents to purchasers or locators who have made entries on public lands claimed as swamp lands.

### § 986. Selection of lands confirmed

All land selected and reported to the General Land Office as swamp and overflowed land by the several States entitled to the provisions of said Act of September 28, 1850, prior to March 3, A.D. 1857, are confirmed to said States respectively so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under any law of the United States.

(R.S. § 2484.)

CODIFICATION

R.S. § 2484 derived from act Mar. 3, 1857, ch. 117, 11 Stat. 251.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

General Land Office and office of Commissioner of General Land Office abolished by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. Functions of former transferred to Bureau of Land Management, and functions of latter transferred to Secretary of the Interior or that officer as he may designate, by that Plan. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 987. Lands to be certified to State within one year

It shall be the duty of the Commissioner of the General Land Office, to certify over to the State of California as swamp and overflowed lands, all the lands represented as such upon the approved township surveys and plats, whether made before or after the 23d day of July 1866, under the authority of the United States.

The Supervisor of Surveys shall under the direction of the Commissioner of the General Land Office, examine the segregation maps and surveys of the swamp and overflowed lands, made by said State; and where he shall find them to conform to the system of surveys adopted by the United States, he shall construct and approve township plats accordingly, and forward to the General Land Office for approval.

In segregating large bodies of land, notoriously and obviously swamp and overflowed, it shall not be necessary to subdivide the same, but to run the exterior lines of such body of land.

In case such State surveys are found not to be in accordance with the system of United States surveys, and in such other townships as no survey has been made by the United States, the commissioner shall direct the Supervisor of Surveys to make segregation surveys, upon application by the governor of said State, within one year of such application, of all the swamp and overflowed land in such townships, and to report the same to the General Land Office, representing and describing what land was swamp and overflowed, under the grant, according to the best evidence he can obtain.

If the authorities of said State, shall claim as swamp and overflowed, any land not represented as such upon the map or in the returns of the surveyors, the character of such land at the date of the grant September 28, 1850, and the right to the same shall be determined by testimony, to be taken before the Supervisor of Surveys, who shall decide the same, subject to the approval of the Commissioner of the General Land Office.

(R.S. § 2488; Mar. 3, 1925, ch. 462, 43 Stat. 1144.)

CODIFICATION

R.S. § 2488 derived from act July 23, 1866, ch. 219, § 4, 14 Stat. 219.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Offices of Commissioner of General Land Office and Supervisor of Surveys, and General Land Office abolished by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100. Functions of Commissioner and Supervisor transferred to Secretary of the Interior or those officers as he may designate, and functions of General Land Office transferred by Bureau of Land Management, by that plan. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 988. Act extended to Minnesota and Oregon

The provisions of sections 982 to 984 of this title are extended to the States of Minnesota and Oregon: *Provided*, That the grant shall not include any lands which the Government of the United States may have sold or disposed of under any law, enacted prior to March 12, 1860, prior to the confirmation of title to be made under the authority of said sections—and the selections to be made from lands already surveyed in each of the States last named, under the authority of said sections, shall have been made within two years from the adjournment of the legislature of each State, at its next session after the 12th day of March, A. D. 1860—and as to all lands surveyed or to be surveyed, thereafter, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the governor of the State, that the surveys have been completed and confirmed.

(R.S. § 2490.)

CODIFICATION

R.S. § 2490 derived from act Mar. 12, 1860, ch. 5, §§ 1, 2, 12 Stat. 3.

### § 989. Homestead entries by purchasers from Missouri of lands declared not to be swamp lands

In all cases in the State of Missouri where lands have, prior to February 23, 1875, been selected and claimed as swamp and overflowed lands by said State, and the various counties therein, by virtue of any Act of Congress, and said lands have been withheld from market in consequence thereof by the General Government, and the said State and counties have sold

said lands to actual settlers, and said settlers have improved the same to the value of $100; said settlers, their heirs, assigns, and legal representatives, who have continued to reside thereon, shall have priority of right to homestead all such lands as may be rejected by the United States as not being in fact swamp and overflowed lands; and it shall be the duty of the Secretary of the Interior to make such rules and regulations as may be necessary to carry into effect the provisions of this section: *Provided*, That nothing herein contained shall prejudice the rights of any person who may have made actual settlement upon such lands under the preemption or homestead laws prior to February 23, 1875.

(Feb. 23, 1875, ch. 99, 18 Stat. 334; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

### § 990. Grant to Missouri

All lands in the State of Missouri selected as swamp and overflowed lands, and regularly reported as such to the General Land Office, and on March 3, 1877, withheld from market as such, so far as the same remain vacant and unappropriated and not interfered with by any preemption, homestead, or other claim under any law of the United States, and the claim whereto has not been on said date rejected by the Commissioner of the General Land Office, or other competent authority, are confirmed to said State, and all title thereto vested in said State: and it is made the duty of the Secretary of the Interior to cause patents to issue for the same.

(Mar. 3, 1877, ch. 116, 19 Stat. 395.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

General Land Office and office of its Commissioner abolished by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, which transferred functions of former to Bureau of Land Management, and transferred functions of latter to Secretary of the Interior or that officer as he may designate. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 991. Title of purchasers of unconfirmed lands in Arkansas confirmed

The title of all persons who had, on April 29, 1898, purchased from the State of Arkansas any unconfirmed swamp land and held deeds for the same, is confirmed and made valid as against any claim or right of the United States, and without the payment by said persons, their heirs or assigns, of any sum whatever to the United States or to the State or Arkansas.

The State of Arkansas does hereby relinquish and quitclaim to the United States all lands prior to April 29, 1898, confirmed, certified, or patented to the State which have been entered under the public land laws; and does cede, relinquish, and quitclaim to the United States all right, title, and interest under the Acts of September 28, 1850, March 2, 1855, and March 3, 1857, in and to all lands in the State which have been heretofore granted, confirmed, certified, or patented by the United States under any other Acts, and the title to such lands is confirmed in the grantees, their heirs, successors, or assigns, anything in this section or any other Act to the contrary notwithstanding: *Provided*, That this section shall be of no force or effect until the State of Arkansas shall have accepted and approved the conditions, limitations, and provisions herein contained by an act of the general assembly or by an instrument in writing duly executed by the governor under the authority conferred upon him by the legislature of said State, and filed with the Secretary of the Treasury and the Secretary of the Interior within one year from April 29, 1898: *Provided further*, That whereas the General Assembly of the State of Arkansas did, on the 10th day of March, 1897, accept and approve the conditions, limitations, and provisions herein contained before April 29, 1898, making the same effective and conclusive, therefore this section shall be in full force and effect from and after April 29, 1898.

(Apr. 29, 1898, ch. 229, §§ 3, 4, 30 Stat. 368.)

REFERENCES IN TEXT

Act of September 28, 1850, referred to in text, is act Sept. 28, 1850, ch. 84, 9 Stat. 519, which is not classified to the Code.

Act of March 2, 1855, referred to in text, is act Mar. 2, 1855, ch. 147, 10 Stat. 634, which is not classified to the Code.

Act of March 3, 1857, referred to in text, is act Mar. 3, 1857, ch. 117, 11 Stat. 251, which is not classified to the Code.

### § 992. Sale of erroneously designated water-covered areas in Arkansas

The Secretary of the Interior, in his judgment and discretion, is authorized to sell, in the manner hereinafter provided in this section, any of those public lands situated in the State of Arkansas which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any citizen of the United States who in good faith under color of title or claiming as a riparian owner, prior to September 21, 1922, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from September 21, 1922, if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands de-

scribed in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled to receive a patent must within thirty days from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated the appraised price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of lands hereunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising hereunder.

(Sept. 21, 1922, ch. 362, §§1–5, 42 Stat. 992; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 993. Sale of lands in Louisiana; preference rights; application for purchase; appraisal; payment for land

The Secretary of the Interior, in his judgment and discretion, is hereby authorized to sell, in the manner hereinafter provided, in this section, any of those lands situated in the State of Louisiana which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any citizen of the United States who, or whose ancestors in title in good faith under color of title or claiming as a riparian owner, prior to February 19, 1925, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from February 19, 1925, if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from official notice to such claimant of the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant or in the actual possession of a person or persons who have improved the property and who have attempted to enter same in compliance with the laws and regulations of the United States land office.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled to receive a patent, must within six months from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, the appraised price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of the lands hereunder shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising hereunder.

All purchases made and patents issued under the provisions of this section shall be subject to and contain a reservation to the United States of all the coal, oil, gas, and other minerals in the lands so purchased and patented, together with the right to prospect for, mine, and remove the same.

(Feb. 19, 1925, ch. 268, §§1, 2, 43 Stat. 951, 952; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'' on authority of sec-

tion 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land office to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

### § 994. Sale of lands in Wisconsin

The Secretary of the Interior, in his judgment and discretion, is authorized to sell, in the manner hereinafter provided in this section, any of those lands situated in the State of Wisconsin which were originally erroneously meandered and shown upon the official plats as water-covered areas, and which are not lawfully appropriated by a qualified settler or entryman claiming under the public land laws.

Any owner in good faith of land shown by the official public land surveys to be bounded in whole or in part by such erroneously meandered area, and who acquired title to such land prior to February 27, 1925, or any citizen of the United States who in good faith under color of title or claiming as a riparian owner had, prior to said date, placed valuable improvements upon or reduced to cultivation any of the lands subject to the operation of this section, shall have a preferred right to file in the office of the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated, an application to purchase the lands thus improved by them at any time within ninety days from said date if the lands have been surveyed and plats filed in the United States land office; otherwise within ninety days from the filing of such plats. Every such application must be accompanied with satisfactory proof that the applicant is entitled to such preference right and that the lands which he applies to purchase are not in the legal possession of an adverse claimant under the public land laws.

In event such erroneously meandered land is bounded by two or more tracts of land held in private ownership with apparent riparian rights indicated by the official township plat of survey at date of disposal of title by the United States, the Secretary of the Interior or such officer as he may designate shall have discretionary power to cause such meandered area, when surveyed, to be divided into such tracts or lots as will permit a fair division of such meandered area among the owners of such surrounding or adjacent tracts under the provisions of this section. In administering the provisions of this section, where there shall exist a conflict of claims falling within its operation, if any claimant shall have placed valuable improvements upon the land involved, or shall have reduced the same to cultivation, then to the extent of such improvements or cultivation, such claimant shall be given preference in adjustment of such conflict: *Provided*, That no preference right of entry under this section shall be recognized for a greater area than one hundred and sixty acres, in one body, to any one applicant, whether an individual, an association, or a corporation: *Provided further*, That this section shall not be construed as in any manner abridging the existing rights of any settler or entryman under the public land laws.

Upon the filing of an application to purchase any lands subject to the operation of this section, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement thereof for agricultural purposes by the applicant or his predecessor in interest, but inclusive of the stumpage value of any timber cut or removed by the applicant or his predecessor in interest.

An applicant who applies to purchase lands under the provisions of this section, in order to be entitled to receive a patent, must within thirty days from receipt of notice of appraisal by the Secretary of the Interior pay to the officer, as the Secretary of the Interior may designate, of the United States land office of the district in which the lands are situated the appraisal price of the lands, and thereupon a patent shall issue to said applicant for such lands as the Secretary of the Interior shall determine that such applicant is entitled to purchase under this section. The proceeds derived by the Government from the sale of lands under this section shall be covered into the United States Treasury and applied as provided by law for the disposal of the proceeds from the sale of public lands.

The Secretary of the Interior is authorized to prescribe all necessary rules and regulations for administering the provisions of this section and determining conflicting claims arising thereunder.

(Feb. 27, 1925, ch. 363, §§1–6, 43 Stat. 1013, 1014; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Officer, as the Secretary of the Interior may designate'' substituted for ''register'', and ''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and General Land Office and Commissioner thereof, and transferred functions of register of district land office to Secretary of the Interior and functions of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

## CHAPTER 24—DRAINAGE UNDER STATE LAWS

### §§ 1021 to 1034. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1021, act May 20, 1908, ch. 181, § 1, 35 Stat. 169, subjected all lands in Minnesota to State laws for drainage for agricultural purposes.

Section 1022, acts May 20, 1908, ch. 181, § 2, 35 Stat. 169; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized apportionment of drainage works.

Section 1023, act May 20, 1908, ch. 181, § 3, 35 Stat. 170, authorized sale of unentered lands or any lands covered by an unpatented entry for enforcement of charges.

Section 1024, acts May 20, 1908, ch. 181, § 4, 35 Stat. 170; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized certification of statement of sale for any unentered lands or any lands covered by an unpatented entry.

Section 1025, acts May 20, 1908, ch. 181, § 5, 35 Stat. 170; Sept. 5, 1916, ch. 437, 39 Stat. 722; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to procedure for issuance of patents to purchasers of unentered lands.

Section 1026, acts May 20, 1908, ch. 181, § 6, 35 Stat. 170; Sept. 5, 1916, ch. 437, 39 Stat. 723; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to procedure for issuance of patents to purchasers of entered lands.

Section 1027, acts May 20, 1908, ch. 181, § 7, 35 Stat. 171; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, required all notices under drainage laws to be supplied to land offices and entrymen.

Section 1028, act Mar. 3, 1919, ch. 113, 40 Stat. 1321, validated and confirmed prior erroneous cash entries on Chippewa Indian lands in Minnesota ceded under act Jan. 14, 1880, ch. 24, 25 Stat. 642.

Section 1029, Pub. L. 85–387, § 1, May 1, 1958, 72 Stat. 99, related to transfer of public lands in Minnesota.

Section 1030, Pub. L. 85–387, § 2, May 1, 1958, 72 Stat. 100, related to issuance of patents to State for such lands.

Section 1031, Pub. L. 85–387, § 3, May 1, 1958, 72 Stat. 100, related to validity of existing claims on patented lands.

Section 1032, Pub. L. 85–387, § 4, May 1, 1958, 72 Stat. 100, related to imposition of liens or assessments on Federal or Indian lands.

Section 1033, Pub. L. 85–387, § 5, May 1, 1958, 72 Stat. 100, related to consent of Indians prior to exercise of authority by Secretary.

Section 1034, Pub. L. 85–387, § 6, May 1, 1958, 72 Stat. 101, authorized promulgation of rules and regulations.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 1041 to 1048. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1041, act Jan. 17, 1920, ch. 47, § 1, 41 Stat. 392, subjected lands in Arkansas to State laws relating to organization, government, and regulation of drainage districts.

Section 1042, acts Jan. 17, 1920, ch. 47, § 2, 41 Stat. 392; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized construction and maintenance of canals, ditches, etc.

Section 1043, acts Jan. 17, 1920, ch. 47, § 3, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to legally assessed liens against unentered public lands.

Section 1044, acts Jan. 17, 1920, ch. 47, § 4, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to excess of price of lands sold to enforce liens of assessment.

Section 1045, acts Jan. 17, 1920, ch. 47, § 5, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to procedure for issuance of patents to purchasers of unentered lands.

Section 1046, acts Jan. 17, 1920, ch. 47, § 6, 41 Stat. 393; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to procedure for issuance of patents to purchasers of unentered lands.

Section 1047, acts Jan. 17, 1920, ch. 47, § 7, 41 Stat. 394; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, required all notices under drainage laws to be supplied to land offices and entrymen.

Section 1048, act Jan. 17, 1920, ch. 47, § 8, 41 Stat. 394, provided for nonapplicability of provisions to lands involved in suits by United States to quiet title.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## CHAPTER 25—UNLAWFUL INCLOSURES OR OCCUPANCY; OBSTRUCTING SETTLEMENT OR TRANSIT

Sec.
1061. Inclosure of or assertion of right to public lands without title.
1062. Suits for violations of law.
1063. Obstruction of settlement on or transit over public lands.
1064. Violations of chapter; punishment.
1065. Summary removal of inclosures.
1066. Permission of Secretary to sue.

### § 1061. Inclosure of or assertion of right to public lands without title

All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such inclosure was or shall be made, are declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and prohibited.

(Feb. 25, 1885, ch. 149, § 1, 23 Stat. 321.)

### § 1062. Suits for violations of law

It shall be the duty of the United States attorney for the proper district, on affidavit filed with him by any citizen of the United States

that section 1061 of this title is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also conferred on any United States district court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this chapter; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court.

(Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Pub. L. 98–620, title IV, § 402(43), Nov. 8, 1984, 98 Stat. 3360.)

AMENDMENTS

1984—Pub. L. 98–620 struck out provision that any suit brought under this section had precedence for hearing and trial over other cases on the civil docket of the court, and had to be tried and determined at the earliest practicable day.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States." See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

The words "district court" substituted for "district or circuit court" in two places to conform to act Mar. 3, 1911, which abolished the circuit courts and transferred their powers and duties to the district courts.

### § 1063. Obstruction of settlement on or transit over public lands

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: *Provided*, This section shall not be held to affect the right or title of persons, who have gone upon, improved, or occupied said lands under the land laws of the United States, claiming title thereto, in good faith.

(Feb. 25, 1885, ch. 149, § 3, 23 Stat. 322.)

REFERENCES IN TEXT

The public land laws of the United States, referred to in text, are classified generally to this title.

### § 1064. Violations of chapter; punishment

Any person violating any of the provisions of this chapter, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding $1,000, or be imprisoned not exceeding one year, or both, for each offense.

(Feb. 25, 1885, ch. 149, § 4, 23 Stat. 322; Mar. 10, 1908, ch. 75, 35 Stat. 40.)

### § 1065. Summary removal of inclosures

The President is authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of the public lands mentioned in this chapter, and to employ civil or military force as may be necessary for that purpose.

(Feb. 25, 1885, ch. 149, § 5, 23 Stat. 322.)

### § 1066. Permission of Secretary to sue

Where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this chapter without authority from the Secretary of the Interior.

(Feb. 25, 1885, ch. 149, § 6, 23 Stat. 322.)

## CHAPTER 25A—LANDS HELD UNDER COLOR OF TITLE

Sec.
1068. Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims.
1068a. Appraisal.
1068b. Mineral reservation.

### § 1068. Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims

The Secretary of the Interior (a) shall, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for more than twenty years, and that valuable improvements have been placed on such land or some part thereof has been reduced to cultivation, or (b) may, in his discretion, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application during which time they have paid taxes levied on the land by State and local govern-

mental units, issue a patent for not to exceed one hundred and sixty acres of such land upon the payment of not less than $1.25 per acre: *Provided*, That where the area so held is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres, may be patented hereunder: *Provided further*, That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *And provided further*, That no patent shall issue under the provisions of this chapter for any tract to which there is a conflicting claim adverse to that of the applicant, unless and until such claim shall have been finally adjudicated in favor of such applicant.

(Dec. 22, 1928, ch. 47, § 1, 45 Stat. 1069; July 28, 1953, ch. 254, § 1, 67 Stat. 227.)

AMENDMENTS

1953—Act July 28, 1953, provided for mandatory issuance of land patents to certain adverse possessors and broadened discretionary power of Secretary to issue patents to parties who have paid taxes on certain public lands since Jan. 1, 1901.

### § 1068a. Appraisal

Upon the filing of an application to purchase any lands subject to the operation of this chapter, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement of the lands by the applicant or his predecessors in interest, and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant.

(Dec. 22, 1928, ch. 47, § 2, 45 Stat. 1070.)

### § 1068b. Mineral reservation

If the claimant requests that the patent to be issued under this chapter not contain a mineral reservation and if he can establish to the satisfaction of the Secretary that the requirements of this chapter have been complied with by such claimant and his predecessors for the period commencing not later than January 1, 1901, to the date of application, no mineral reservation shall be made unless the lands are, at the time of issuance of the patent, within a mineral withdrawal or subject to an outstanding mineral lease.

(Dec. 22, 1928, ch. 47, § 3, as added July 28, 1953, ch. 254, § 2, 67 Stat. 228.)

## CHAPTER 26—ABANDONED MILITARY RESERVATIONS

### §§ 1071 to 1073. Repealed. Oct. 31, 1951, ch. 654, § 1(114), 65 Stat. 706

Section 1071, act July 5, 1884, ch. 214, § 1, 23 Stat. 103, provided for designation by President of abandoned military reservations for disposition by Secretary of the Interior.

Section 1072, act July 5, 1884, ch. 214, § 2, 23 Stat. 103, related to survey or subdivision of those lands and appraisal, advertisement and sale and rights of settlers.

Section 1073, act July 5, 1884, ch. 214, § 3, 23 Stat. 103, related to sale of improvements or other property on those reservations.

### § 1074. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act July 5, 1884, ch. 214, § 5, 23 Stat. 104, authorized disposition of mineral lands of vacated military reservations under mineral-land laws of United States.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 1075. Repealed. Pub. L. 94–579, title VII, §§ 702, 703(a), Oct. 21, 1976, 90 Stat. 2787, 2789

Section, act Aug. 21, 1916, ch. 361, 39 Stat. 518, provided for applicability of homestead and desert land laws to military reservations in Nevada.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

Section 703(a) of Pub. L. 94–579 additionally provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 1076 to 1081. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1076, act Mar. 3, 1893, ch. 208, 27 Stat. 593, authorized the President to withhold from sale or grant to municipal corporations portions of abandoned military reservations.

Section 1077, acts Aug. 23, 1894, ch. 314, § 1, 28 Stat. 491; Feb. 15, 1895, ch. 92, § 1, 28 Stat. 664, authorized opening of lands of abandoned military reservations to settlement.

Section 1078, act Aug. 23, 1894, ch. 314, § 2, 28 Stat. 491, limited applicability of section 1077 of this title with respect to provisions of act July 5, 1884, relating to disposition of mineral lands.

Section 1079, act Feb. 11, 1903, ch. 543, 32 Stat. 822, related to confirmation of indemnity selections by States in lieu of school sections in abandoned military reservations.

Section 1080, act Feb. 15, 1895, ch. 92, § 1, 28 Stat. 664, extended applicability of provisions relating to settlement and indemnity selection of abandoned military reservation to those abandoned prior to July 5, 1884.

Section 1081, act Aug. 23, 1894, ch. 314, § 3, as added Apr. 23, 1904, ch. 1496, 33 Stat. 306, authorized patents for homesteads on Fort Abraham Lincoln Military Reservation, North Dakota.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## CHAPTER 27—PUBLIC LANDS IN OKLAHOMA

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1091 to 1094. Repealed.
1095. Reservations between sections for highway purposes.
1096 to 1098. Repealed.
1099. Division into counties before opening to settlement; reservation for county seats.
1100 to 1102g. Repealed.

SUBCHAPTER II—TOWN SITES

1111 to 1119. Repealed.

SUBCHAPTER III—LANDS IN GREER COUNTY

1131 to 1134. Repealed.

### SUBCHAPTER I—GENERAL PROVISIONS

### §§ 1091 to 1094. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1091, act May 2, 1890, ch. 182, § 18, 26 Stat. 90, related to homestead entries on Indian lands.

Section 1092, act May 2, 1890, ch. 182, § 20, 26 Stat. 91, related to procedure for homestead entries.

Section 1093, act May 2, 1890, ch. 182, § 21, 26 Stat. 91, related to patents on homestead entries.

Section 1094, act May 2, 1890, ch. 182, § 22, 26 Stat. 91, related to reservation and sale of townsites.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 1095. Reservations between sections for highway purposes

There shall be reserved public highways four rods wide between each section of land in said former Territory of Oklahoma, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey.

(May 2, 1890, ch. 182, § 23, 26 Stat. 92.)

### §§ 1096 to 1098. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1096, act May 2, 1890, ch. 182, § 24, 26 Stat. 92, related to fraudulent settlement of open lands.

Section 1097, act May 2, 1890, ch. 182, § 27, 26 Stat. 93, related to rights of occupants of lands prior to May 2, 1890.

Section 1098, act Mar. 3, 1891, ch. 543, § 16, 26 Stat. 1026, provided that all lands in Oklahoma be deemed agricultural lands for purposes of entry.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 1099. Division into counties before opening to settlement; reservation for county seats

Before any lands in Oklahoma are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into counties which shall contain as near as possible not less than seven hundred square miles in each county: *Provided*, That as soon as the county lines are designated by the Secretary he shall reserve not to exceed one-half section of land in each, to be located near the center of said county, for county seat purposes, to be entered under sections 718 and 719[1] of this title.

(Mar. 3, 1891, ch. 543, § 37, 26 Stat. 1043.)

REFERENCES IN TEXT

Sections 718 and 719 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789.

### §§ 1100 to 1102g. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1100, acts Aug. 7, 1946, ch. 772, § 1, 60 Stat. 872; Sept 22, 1950, ch. 983, 64 Stat. 903, granting of patents to certain lands south of Cimarron base line in Oklahoma and north of north line of Texas.

Section 1101, act Aug. 7, 1946, ch. 772, § 2, 60 Stat. 872, related to relinquishment by United States of title to townsite plots.

Section 1102, act Aug. 3, 1955, ch. 498, § 1, 69 Stat. 445, related to management and disposition of lands conveyed to United States by Choctaw Nation.

Section 1102a, act Aug. 3, 1955, ch. 498, § 2, 69 Stat. 445, authorized certain powers in Secretary to facilitate administration of such lands.

Section 1102b, act Aug. 3, 1955, ch. 498, § 3, 69 Stat. 446, related to sale or leasing of lands to Oklahoma or other agency.

Section 1102c, act Aug. 3, 1955, ch. 498, § 4, 69 Stat. 446, related to issuance of quitclaim deeds and reservation of mineral deposits.

Section 1102d, act Aug. 3, 1955, ch. 498, § 5, 69 Stat. 446, related to granting of easements, leases or permits for nonmineral resources.

Section 1102e, act Aug. 3, 1955, ch. 498, § 6, 69 Stat. 446, related to acceptance of contributions, donations, etc.

Section 1102f, act Aug. 3, 1955, ch. 498, § 7, 69 Stat. 447, related to issuance of regulations by Secretary of the Interior.

Section 1102g, act Aug. 3, 1955, ch. 498, § 8, 69 Stat. 447, related to deposit of moneys received into Treasury.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94–579 not to be construed as terminating any valid lease, permit, patent, etc., existing on

[1] See References in Text note below.

Oct. 21, 1976, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of this title.

## SUBCHAPTER II—TOWN SITES

### §§ 1111 to 1119. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1111, acts May 14, 1890, ch. 207, § 1, 26 Stat. 109; July 7, 1898, ch. 571, § 1, 30 Stat. 674, authorized entry by trustees on to town sites.

Section 1112, acts May 14, 1890, ch. 207, § 2, 26 Stat. 109; July 7, 1898, ch. 571, § 1, 30 Stat. 674, related to evidence of occupancy.

Section 1113, act May 14, 1890, ch. 207, § 3, 26 Stat. 109, related to church lots.

Section 1114, act May 14, 1890, ch. 207, § 4, 26 Stat. 109, related to sale or reservation of lots for public use.

Section 1115, acts May 14, 1890, ch. 207, § 5, 26 Stat. 109; July 7, 1898, ch. 571, § 1, 30 Stat. 674, authorized applicability of Kansas town-site law to trustees, or Commissioner after Jan. 1, 1899, in performing their duties.

Section 1116, acts May 14, 1890, ch. 207, § 6, 26 Stat. 110; July 7, 1898, ch. 571, § 1, 30 Stat. 674, related to preference of pending entries of town sites.

Section 1117, acts May 14, 1890, ch. 207, § 7, 26 Stat. 110; July 7, 1898, ch. 571, § 1, 30 Stat. 674, related to authority, duties, and compensation of trustees.

Section 1118, act Sept. 1, 1893, No. 4, 28 Stat. 11, extended town-site laws to Cherokee Outlet territory.

Section 1119, act May 11, 1896, ch. 168, §§ 1, 2, 29 Stat. 117; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to homestead entries on vacated town-sites.

#### Effective Date of Repeal

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

#### Savings Provision

Repeal 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.

## SUBCHAPTER III—LANDS IN GREER COUNTY

### §§ 1131 to 1134. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1131, acts Jan. 18, 1897, ch. 62, § 1, 29 Stat. 490; June 23, 1897, ch. 8, 30 Stat. 105; Mar. 1, 1899, ch. 328, 30 Stat. 966, related to homestead settlers on lands in Greer County.

Section 1132, act Jan. 18, 1897, ch. 62, § 2, 29 Stat. 490, related to laws applicable to entries of unoccupied lands.

Section 1133, act Jan. 18, 1897, ch. 62, § 3, 29 Stat. 490, related to laws applicable to entries of town-sites.

Section 1134, act Jan. 18, 1897, ch. 62, § 7, 29 Stat. 491, authorized applicability of sections 1131 to 1134 of this title to Greer County, Oklahoma, and repeal of inconsistent provisions.

#### Effective Date of Repeal

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

#### Savings Provision

Repeal 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.

# CHAPTER 28—MISCELLANEOUS PROVISIONS RELATING TO PUBLIC LANDS

## SUBCHAPTER I—PATENTS FOR PRIVATE LAND CLAIMS

Sec.
1151 to 1156. Repealed.

## SUBCHAPTER II—DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

1161. ''Suspended entries of public lands'' and ''suspended preemption land claims''.
1162. Adjudications as to suspended entries; approval.
1163. Patents surrendered and new ones issued.
1164. Extent of foregoing provisions.
1165. Suspension of entries for correction of clerical errors; patents.
1166. Limitations of suits to annul patents.
1167. Entries and final proofs, made out of proper district, confirmed.

## SUBCHAPTER III—SALES OF ISOLATED TRACTS

1171 to 1177. Repealed.

## SUBCHAPTER IV—TIMBER CULTURE

1181. Repeal of laws.

## SUBCHAPTER V—OREGON AND CALIFORNIA RAILROAD AND COOS BAY WAGON ROAD GRANT LANDS

1181a. Conservation management by Department of the Interior; permanent forest production; sale of timber; subdivision.
1181b. Cooperative agreements with other agencies or private owners for coordinated administration.
1181c. Repealed.
1181d. Leasing of lands for grazing; disposition of moneys; rules and regulations covering grazing lands.
1181e. Rules and regulations generally; consultation and agreements with other agencies regarding fire regulations.
1181f. Oregon and California land-grant fund; annual distribution of moneys.
1181f–1. Coos Bay Wagon Road grant fund; annual payments; appraisal and assessment of land and timber; computation of payments.
1181f–2. Appraisal of land and timber; manner and frequency; computation of amounts upon basis of last appraisement; deduction of appraisement expenses.
1181f–3. Additional sum from surplus for meeting payments due from insufficient annual receipts; maximum aggregate of decennial payments; covering of excess receipts into general fund of Treasury.
1181f–4. Amount available for administration of Coos Bay Wagon Road grant lands under sections 1181a to 1181f of this title; covering of unused receipts into general fund of Treasury.
1181g. Unselected and unpatented odd-numbered sections as revested grant lands; administration as national-forest lands; revenues; prohibition against disposition or exchange.
1181h. Exchange of jurisdiction between Secretaries; conditions; publication in Federal Register.
1181i. Designation of national-forest areas within counties; disposition of revenues; approval by court.
1181j. Appropriations to carry out sections 1181h and 1181i.

## SUBCHAPTER VI—DISPOSAL OF MATERIALS ON PUBLIC LANDS

1185 to 1188. Transferred.

## SUBCHAPTER VII—EVIDENCES OF TITLE

1191 to 1193. Repealed.

Sec.

SUBCHAPTER VIII—INDIAN LANDS

1195. Negotiations for cession of lands.
1196. Classification and appraisement of unallotted and unreserved lands.
1197. Agreements with Indians not affected.
1198. Condemnation of Sioux lands for dam purposes; negotiation of contracts.
1199. Provisions to be included in contracts for condemnation of Sioux lands for dam purposes.
1200. Judicial determination where compensation for condemnation of Sioux lands for dam purposes rejected.
1200a. Preparation of appraisal schedule in determining just compensation for condemnation of Sioux lands for dam purposes; contents; transmittal to tribal representatives.
1200b. Inclusion of other provisions in contracts for condemnation of Sioux lands for dam purposes.
1200c. Submission of contracts and reports covering disagreements on condemnation of Sioux lands for dam purposes; ratification; effect.
1200d. Effect of condemnation of Sioux lands for dam purposes on construction of Fort Randall Dam.
1200e. Authorization of appropriations for relocating certain Sioux tribe members after condemnation of lands for dam purposes; conditions; title to lands acquired.

SUBCHAPTER IX—ENFORCEMENT OF PROVISIONS

1201. Power of Secretary or designated officer.

SUBCHAPTER X—OATHS IN CERTAIN LAND MATTERS

1211. Elimination of oaths for written statements; discretion of Secretary of the Interior.
1212. Unsworn written statements subject to penalties of presenting false claims.

SUBCHAPTER XI—WISCONSIN RIVER AND LAKE LAND TITLES

1221. Issuance of patents; application.
1222. Notice of opening of lands to purchase.
1223. Valid existing rights unaffected.

SUBCHAPTER XII—MOVING EXPENSES RESULTING FROM ACQUISITION OF LANDS BY SECRETARY OF THE INTERIOR

1231 to 1234. Repealed.

SUBCHAPTER XIII—STATE CONTROL OF NOXIOUS PLANTS ON GOVERNMENT LANDS

1241. Control of noxious plants on Government lands; State programs; terms of entry.
1242. Reimbursement of States for expenses.
1243. Authorization of appropriations.

## SUBCHAPTER I—PATENTS FOR PRIVATE LAND CLAIMS

### §§ 1151 to 1156. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1151, R.S. § 2447; act Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to issuance of patents for confirmed claims.

Section 1152, R.S. § 2448, related to effect of patents to persons dead before issue.

Section 1153, act June 6, 1874, ch. 223, § 1, 18 Stat. 62, related to confirming titles to lands in Missouri in existence prior to June 6, 1874.

Section 1154, act June 6, 1874, ch. 223, § 2, 18 Stat. 62, related to unimpairing, etc., rights in existence prior to June 6, 1874.

Section 1155, act Jan. 28, 1879, ch. 30, §§ 1–4, 20 Stat. 274, 275; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized issuance of certificates of location of private land claims for certain States.

Section 1156, act May 30, 1894, ch. 87, 28 Stat. 84; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, authorized issuance of patents for locations under certificates made prior to Jan. 28, 1879, under former section 1155 of this title.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER II—DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

### § 1161. "Suspended entries of public lands" and "suspended preemption land claims"

The Secretary of the Interior, or such officer as he may designate, is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be approved by the Secretary of the Interior, consistently with such principles, all cases of suspended entries of public lands and of suspended preemption land claims, and to adjudge in what cases patents shall issue upon the same.

(R.S. § 2450; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; Sept. 20, 1922, ch. 350, 42 Stat. 857; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2450 derived from acts Aug. 3, 1846, ch. 78, § 1, 9 Stat. 51; Mar. 3, 1853, ch. 152, § 1, 10 Stat. 258; June 26, 1856, ch. 47, 11 Stat. 22; June 1, 1874, ch. 200, 18 Stat. 50; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Secretary of the Interior, or such officer as he may designate," substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 1162. Adjudications as to suspended entries; approval

Every such adjudication shall be approved by the Secretary of the Interior and shall operate only to divest the United States of the title to the land embraced thereby, without prejudice to the rights of conflicting claimants.

(R.S. § 2451; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; Sept. 20, 1922, ch. 350, 42 Stat. 858.)

CODIFICATION

R.S. § 2451 derived from acts Aug. 3, 1846, ch. 78, § 1, 9 Stat. 51; Feb. 27, 1877. ch. 69, § 1, 19 Stat. 244.

### § 1163. Patents surrendered and new ones issued

Where patents have been already issued on entries which are approved by the Secretary of the Interior, the Secretary of the Interior, or such officer as he may designate, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such approval, to the person who made the entry, his heirs or assigns.

(R.S. § 2456; Sept. 20, 1922, ch. 350, 42 Stat. 858; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2456 derived from act Mar. 3, 1853, ch. 152, § 2, 10 Stat. 258.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior, or such officer as he may designate,'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 1164. Extent of foregoing provisions

Sections 1161 to 1163 of this title shall be applicable to all cases of suspended entries and locations, which have arisen in the Bureau of Land Management since the 26th day of June 1856 as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and preemption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or preemptor are prejudiced, or where there is no adverse claim.

(R.S. § 2457; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2457 derived from act June 26, 1856, ch. 47, 11 Stat. 22.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Bureau of Land Management'' substituted for ''General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

### § 1165. Suspension of entries for correction of clerical errors; patents

Whenever it shall appear to the Secretary of the Interior, or such officer as he may designate, that a clerical error has been committed in the entry of any of the public lands such entry may be suspended, upon proper notification to the claimant, through the local land office, until the error has been corrected; and all entries made under the preemption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued, and to which there are no adverse claims originating prior to final entry and which have been sold or incumbered prior to the 1st day of March, 1888, and after final entry, to bona fide purchasers, or incumbrancers, for a valuable consideration, shall unless upon an investigation by a Government agent, fraud on the part of the purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the Land Department of such sale or incumbrance: *Provided*, That after the lapse of two years from the date of the issuance of the receipt of such officer as the Secretary of the Interior may designate upon the final entry of any tract of land under the homestead, timber-culture, desert-land, or preemption laws, or under this act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor.

(Mar. 3, 1891, ch. 561, § 7, 26 Stat. 1098; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

This act, referred to in text, means act Mar. 3, 1891, ch. 561, 26 Stat. 1095, as amended, which enacted sections 161, 162, 173, 174, 185, 202, 212, 321, 323, 325, 327 to 329, 663, 671, 687a–6, 718, 728, 732, 893, 946 to 949, 989, 1165, 1166, 1181, and 1197 of this title, sections 471, 607, 611, 611a, and 613 of Title 16, Conservation, section 495 of Title 25, Indians, and sections 30, 36, 44, 45, 48, and 52 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 165 of this title.

REPEALS

Repeal of ''Act to encourage the growth of timber on the western prairies'' not to affect valid rights accrued or accruing under said law and claims to be perfected in same manner as if act had not been repealed, see section 1181 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior, or such officer as he may designate'' and ''receipt of such officer as the Secretary of the Interior may designate'' substituted for ''Commissioner of the General Land Office'' and ''register's receipt'', respectively, on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

Act Mar. 3, 1925, abolished office of surveyor general and transferred administration of all activities in charge of surveyors general to Field Surveying Service under jurisdiction of United States Supervisor of Surveys.

### § 1166. Limitations of suits to annul patents

Suits by the United States to vacate and annul any patent shall only be brought within six years after the date of the issuance of such patents.

(Mar. 3, 1891, ch. 559, 26 Stat. 1093; Mar. 3, 1891, ch. 561, § 8, 26 Stat. 1099.)

### § 1167. Entries and final proofs, made out of proper district, confirmed

Whenever it shall appear to the Secretary of the Interior, or such officer as he may designate, that an error was made prior to March 9, 1904, by the officers of any local land office in receiving any application, declaratory statement, entry, or final proof under the homestead or other land laws, and that there was no fraud practiced by the entryman, and that there are no prior adverse claimants to the land described in the entry, and that no other reason why the title should not vest in the entryman exists, except that said application, declaratory statement, entry, or proof was not made within the land district in which the lands applied for were situated, as provided by the Act of March 11, 1902 [43 U.S.C. 254], such entry or proof shall be confirmed.

(Mar. 9, 1904, ch. 503, § 1, 33 Stat. 64; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Act of March 11, 1902, referred to in text, probably means act Mar. 11, 1902, ch. 182, 32 Stat. 63, which was classified to section 254 of this title and was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior, or such officer as he may designate,'' substituted for ''Commissioner of the General Land Office'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

EFFECTIVE DATE

Section 2 of act Mar. 9, 1904, provided: ''That this Act [enacting this section] shall be in force from and after its passage and approval.''

## SUBCHAPTER III—SALES OF ISOLATED TRACTS

### §§ 1171 to 1173. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1171, R.S. § 2455; acts Feb. 26, 1895, ch. 133, 28 Stat. 687; June 27, 1906, ch. 3554, 34 Stat. 517; Mar. 28, 1912, ch. 67, 37 Stat. 77; Mar. 9, 1928, ch. 164, 45 Stat. 253; June 28, 1934, ch. 865, § 14, 48 Stat. 1274; July 30, 1947, ch. 383, 61 Stat. 630, set forth provisions relating to sale of isolated or disconnected tracts by Secretary of the Interior.

Section 1171a, act Apr. 24, 1928, ch. 428, 45 Stat. 457, provided for applicability of section 1171 of this title to certain lands in Oklahoma.

Section 1171b, act May 23, 1930, ch. 313, 46 Stat. 377, provided for applicability of section 1171 of this title to certain lands in Alabama.

Section 1172, act Feb. 4, 1919, ch. 13, 40 Stat. 1055, provided for applicability of section 1171 of this title to ceded Chippewa Indian lands in Minnesota.

Section 1173, act May 10, 1920, ch. 178, 41 Stat. 595, provided for applicability of section 1171 of this title to sale of tracts in Fort Berthold Indian Reservation, North Dakota.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### § 1174. Repealed. Aug. 28, 1937, ch. 876, title II, 50 Stat. 876

Section, act May 25, 1920, ch. 200, 41 Stat. 622, related to sale of class 3 of revested Oregon and California Railroad grant lands. See sections 1181a to 1181f of this title and Repeals note set out under section 1181a of this title.

### §§ 1175 to 1177. Repealed. Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section 1175, act Aug. 11, 1921, ch. 62, 42 Stat. 159, provided for applicability of section 1171 of this title to sale of tracts in Fort Buford Military Reservation, North Dakota and Montana.

Section 1176, act May 19, 1926, ch. 337, 44 Stat. 566, provided for applicability of section 1171 of this title to sale of lands in Fort Hall Indian Reservation.

Section 1177, act Feb. 14, 1931, ch. 170, 46 Stat. 1105, provided for applicability of section 1171 of this title to sale of certain lands in Crow Indian Reservation, Montana.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER IV—TIMBER CULTURE

### § 1181. Repeal of laws

An Act entitled ''An Act to amend an Act entitled 'An Act to encourage the growth of timber on the western prairies,''' approved June 14, 1878, and all laws supplementary thereto or amendatory thereof are repealed: *Provided*, That this repeal shall not affect any valid rights accrued or accruing under said laws but all bona fide claims lawfully initiated prior to March 3, 1891, may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this section had not been passed: *Provided further*, That the following words of the last clause of section 2 of said Act, namely, ''That not less than twenty-seven hundred trees were planted on each acre,''

are repealed: *Provided further*, That in computing the period of cultivation the time shall run from the date of the entry, if the necessary acts of cultivation were performed within the proper time: *Provided further*, That the preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute: *Provided further*, That if trees, seeds, or cuttings were in good faith planted as provided by law and the same and the land upon which so planted were thereafter in good faith cultivated as provided by law for at least eight years by a person qualified to make entry and who has a subsisting entry under the timber-culture laws, final proof may be made without regard to the number of trees that may have been then growing on the land: *And provided*, That any person who has made entry of any public lands of the United States under the timber-culture laws, and who has for a period of four years in good faith complied with the provisions of said laws and who is an actual bona fide resident of the State or Territory in which said land is located shall be entitled to make final proof thereto, and acquire title to the same, by the payment of $1.25 per acre for such tract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, and such officers as the Secretary may designate shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries: *And provided further*, That no land acquired under the provisions of this section shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor.

(Mar. 3, 1891, ch. 561, § 1, 26 Stat. 1095; Mar. 3, 1893, ch. 208, 27 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

An Act entitled "An Act to amend an Act entitled 'An Act to encourage the growth of timber on the western prairies,'" approved June 14, 1878, referred to in text, is act June 14, 1878, ch. 190, 20 Stat. 113, which is not classified to the Code.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Such officers as the Secretary may designate" substituted for "registers" on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## SUBCHAPTER V—OREGON AND CALIFORNIA RAILROAD AND COOS BAY WAGON ROAD GRANT LANDS

### § 1181a. Conservation management by Department of the Interior; permanent forest production; sale of timber; subdivision

Notwithstanding any provisions in the Acts of June 9, 1916 (39 Stat. 218), and February 26, 1919 (40 Stat. 1179), as amended, such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site lands valuable for timber, shall be managed, except as provided in section 1181c[1] of this title, for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal[2] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilties:[3] *Provided*, That nothing in this section shall be construed to interfere with the use and development of power sites as may be authorized by law.

The annual productive capacity for such lands shall be determined and declared as promptly as possible after August 28, 1937, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: *Provided*, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market.

If the Secretary of the Interior determines that such action will facilitate sustained-yield management, he may subdivide such revested lands into sustained-yield forest units, the boundary lines of which shall be so established that a forest unit will provide, insofar as practicable, a permanent source of raw materials for the support of dependent communities and local industries of the region; but until such subdivision is made the land shall be treated as a single unit in applying the principle of sustained yield: *Provided*, That before the boundary lines of such forest units are established, the Department, after published notice thereof, shall hold a hearing thereon in the vicinity of such lands open to the attendance of State and local officers, representatives of dependent industries, residents, and other persons interested in the use of such lands. Due consideration shall be given to established lumbering operations in subdividing such lands when necessary to protect the economic stability of dependent communities. Timber sales from a forest unit shall be limited to the productive capacity of such unit and the Secretary is authorized, in his discretion, to reject any bids which may interfere with the sustained-yield management plan of any unit.

(Aug. 28, 1937, ch. 876, title I, § 1, 50 Stat. 874.)

REFERENCES IN TEXT

Section 1181c of this title, referred to in first par., was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

Acts of June 9, 1916, and February 26, 1919, referred to in text, are acts June 9, 1916, ch. 137, 39 Stat. 218 and

[1] See References in Text note below.

[2] So in original. Probably should be "principle".

[3] So in original. Probably should be "facilities:".

Feb. 26, 1919, ch. 47, 40 Stat. 1179, respectively, which are not classified to the Code.

REPEALS

Act Aug. 28, 1937, ch. 876, title II (last par.), 50 Stat. 876, provided: ''All Acts or parts of Acts in conflict with this Act [sections 1181a to 1181f of this title] are hereby repealed to the extent necessary to give full force and effect to this Act.''

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, in the event of conflict or inconsistency with the act of August 28, 1937, sections 1181a et seq. of this title, insofar as relating to management of timber resources, etc., not to supersede, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of this title.

LEASE OF SMALL TRACTS FOR RESIDENTIAL, RECREATIONAL, OR COMMUNITY SITE PURPOSES

Lease of small tracts of the lands described in this section for residential, recreational, or community site purposes, and conditions with respect thereto, see section 682e of this title.

### § 1181b. Cooperative agreements with other agencies or private owners for coordinated administration

The Secretary of the Interior is authorized, in his discretion, to make cooperative agreements with other Federal or State forest administrative agencies or with private forest owners or operators for the coordinated administration, with respect to time, rate, method of cutting, and sustained yield, of forest units comprising parts of revested or reconveyed lands, together with lands in private ownership or under the administration of other public agencies, when by such agreements he may be aided in accomplishing the purposes mentioned in sections 1181a and 1181b of this title.

(Aug. 28, 1937, ch. 876, title I, § 2, 50 Stat. 874.)

### § 1181c. Repealed. Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787

Section, act Aug. 28, 1937, ch. 876, title I, § 3, 50 Stat. 875, related to classification and reclassification of lands as more suitable for agricultural use.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

SAVINGS PROVISION

Repeal 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.

### § 1181d. Leasing of lands for grazing; disposition of moneys; rules and regulations covering grazing lands

The Secretary of the Interior is authorized, in his discretion, to lease for grazing any of said revested or reconveyed lands which may be so used without interfering with the production of timber or other purposes of sections 1181a to 1181f of this title as stated in section 1181a of this title: *Provided*, That all the moneys received on account of grazing leases shall be covered either into the ''Oregon and California land-grant fund'' or the ''Coos Bay Wagon Road grant fund'' in the Treasury as the location of the leased lands shall determine, and be subject to distribution as other moneys in such funds: *Provided further*, That the Secretary is also authorized to formulate rules and regulations for the use, protection, improvement, and rehabilitation of such grazing lands.

(Aug. 28, 1937, ch. 876, title I, § 4, 50 Stat. 875.)

### § 1181e. Rules and regulations generally; consultation and agreements with other agencies regarding fire regulations

The Secretary of the Interior is authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of sections 1181a to 1181f of this title into full force and effect. The Secretary of the Interior is further authorized, in formulating forest-practice rules and regulations, to consult with the Oregon State Board of Forestry, representatives of timber owners and operators on or contiguous to said revested and reconveyed lands, and other persons or agencies interested in the use of such lands.

In formulating regulations for the protection of such timberlands against fire, the Secretary is authorized, in his discretion, to consult and advise with Federal, State, and county agencies engaged in forest-fire-protection work, and to make agreements with such agencies for the cooperative administration of fire regulations therein: *Provided*, That rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States.

(Aug. 28, 1937, ch. 876, title I, § 5, 50 Stat. 875.)

### § 1181f. Oregon and California land-grant fund; annual distribution of moneys

On and after March 1, 1938, all moneys deposited in the Treasury of the United States in the special fund designated the ''Oregon and California land-grant fund'' shall be distributed annually as follows:

(a) Fifty per centum to the counties in which the lands revested under the Act of June 9, 1916 (39 Stat. 218), are situated, to be payable on or after June 30, 1938, and each year thereafter to each of said counties in the proportion that the total assessed value of the Oregon and California grant lands in each of said counties for the year 1915 bears to the total assessed value of all of said lands in the State of Oregon for said year, such moneys to be used as other county funds: *Provided, however*, That for the purposes of this subsection the portion of the said revested Oregon and California railroad grant lands in each of said counties which was not assessed for the year 1915 shall be deemed to have been assessed at the average assessed value of the grant lands in said county.

(b) Twenty-five per centum to said counties as money in lieu of taxes accrued or which shall ac-

crue to them prior to March 1, 1938, under the provisions of the Act of July 13, 1926 (44 Stat. 915), and which taxes are unpaid on said date, such moneys to be paid to said counties severally by the Secretary of the Treasury of the United States, upon certification by the Secretary of the Interior, until such tax indebtedness as shall have accrued prior to March 1, 1938, is extinguished.

From and after payment of the above accrued taxes said 25 per centum shall be accredited annually to the general fund in the Treasury of the United States until all reimbursable charges against the Oregon and California land-grant fund owing to the general fund in the Treasury have been paid: *Provided*, That if for any year after the extinguishment of the tax indebtedness accruing to the counties prior to March 1, 1938, under the provisions of Forty-fourth Statutes, page 915, the total amount payable under subsection (a) of this section is less than 78 per centum of the aggregate amount of tax claims which accrued to said counties under said Act for the year 1934, there shall be additionally payable for such year such portion of said 25 per centum (but not in excess of three-fifths of said 25 per centum), as may be necessary to make up the deficiency. When the general fund in the Treasury has been fully reimbursed for the expenditures which were made charges against the Oregon and California land-grant fund said 25 per centum shall be paid annually, on or after September 30, to the several counties in the manner provided in subsection (a) of this section.

(c) Twenty-five per centum to be available for the administration of sections 1181a to 1181f of this title, in such annual amounts as the Congress shall from time to time determine. Any part of such per centum not used for administrative purposes shall be covered into the general fund of the Treasury of the United States: *Provided*, That moneys covered into the Treasury in such manner shall be used to satisfy the reimbursable charges against the Oregon and California land-grant fund mentioned in subsection (b) of this section so long as any such charges shall exist.

(Aug. 28, 1937, ch. 876, title II, 50 Stat. 875; June 24, 1954, ch. 357, § 1(b), 68 Stat. 271; Pub. L. 94–273, § 2(28), Apr. 21, 1976, 90 Stat. 376.)

REFERENCES IN TEXT

Act of June 9, 1916, referred to in subsec. (a), is act June 9, 1916, ch. 137, 39 Stat. 218, which is not classified to the Code.

Act of July 13, 1926 (44 Stat. 915), Forty-fourth Statutes, page 915, and said Act, referred to in subsec. (b), mean act July 13, 1926, ch. 897, 44 Stat. 915, which is not classified to the Code.

CODIFICATION

Section comprises all of title II of act Aug. 28, 1937, except the last par. which is set out as a Repeals note under section 1181a of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94–273 substituted ''September'' for ''June''.

1954—Subsec. (a). Act June 24, 1954, inserted proviso relating to determination of assessment.

SHARING OF BUREAU OF LAND MANAGEMENT TIMBER SALE RECEIPTS

Pub. L. 103–66, title XIII, § 13983, Aug. 10, 1993, 107 Stat. 682, as amended by Pub. L. 103–443, § 1(b), Nov. 2, 1994, 108 Stat. 4631, authorized the Secretary of the Treasury to make defined special payments in certain fiscal years to counties in Oregon and California in lieu of certain other payments under this section and section 1181f–1 et seq. of this title, prior to repeal by Pub. L. 106–393, title IV, § 404, Oct. 30, 2000, 114 Stat. 1623.

## § 1181f–1. Coos Bay Wagon Road grant fund; annual payments; appraisal and assessment of land and timber; computation of payments

Beginning with the fiscal year next following May 24, 1939, not to exceed 75 per centum of the receipts derived in any one year from the Coos Bay Wagon Road grant lands in Oregon and deposited in the special fund in the Treasury created by the Act of February 26, 1919 (40 Stat. 1179), and designated ''The Coos Bay Wagon Road grant fund'' shall be paid annually, in lieu of taxes, by the Secretary of the Treasury, upon certification by the Secretary of the Interior, to the treasurers of Coos and Douglas Counties according to the ratio that the total assessed valuation of the reconveyed Coos Bay Wagon Road grant lands, belonging to the United States, in each of said counties bears to the total assessed valuation of all said lands in those counties, to be used for the purposes mentioned in said Act: *Provided*, That until such time as the general fund of the Treasury of the United States shall have been fully reimbursed by Douglas County for expenditures which were made charges against the Coos Bay Wagon Road grant fund by section 5 of the Act of February 26, 1919, said Douglas County shall be entitled to receive only 50 per centum of the amount to which it would otherwise be entitled under sections 1181f–1 to 1181f–4 of this title: *Provided further*, That prior to making any payment under this authorization an appraisal of the land and timber thereon shall be made, within six months after May 24, 1939, by a committee to consist of a representative of the Secretary of the Interior, one representative for the two counties interested, and a third person satisfactory to the Secretary of the Interior and the county officials, but who shall not be an employee of the United States nor a resident of, nor a property owner in, either Coos or Douglas County. Upon appraisal thereof, the land and timber thereon shall be assessed as are other similar properties within the respective counties, and payments hereunder in lieu of taxes shall be computed by applying the same rates of taxation as are applied to privately owned property of similar character in such counties.

(May 24, 1939, ch. 144, § 1, 53 Stat. 753.)

REFERENCES IN TEXT

Act of February 26, 1919, referred to in text, is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

REPEALS

Section 5 of act May 24, 1939, provided that: ''All Acts or parts of Acts inconsistent with this Act [sections 1181f–1 to 1181f–4 of this title] are hereby repealed.''

**§ 1181f–2. Appraisal of land and timber; manner and frequency; computation of amounts upon basis of last appraisement; deduction of appraisement expenses**

Appraisals of the land and timber thereon shall be made, in the manner prescribed in section 1181f–1 of this title, not less frequently than once in each ten-year period, and the amounts due hereunder in any year shall be computed as specified in section 1181f–1 of this title upon the basis of the last appraisement. The expenses of making the appraisements provided for in sections 1181f–1 to 1181f–4 of this title shall be paid by the Secretary of the Treasury upon certification by the Secretary of the Interior, from that portion of the receipts derived from such lands and timber payable to the counties and shall be deducted from any amount due said counties.

(May 24, 1939, ch. 144, § 2, 53 Stat. 754.)

**§ 1181f–3. Additional sum from surplus for meeting payments due from insufficient annual receipts; maximum aggregate of decennial payments; covering of excess receipts into general fund of Treasury**

If, during any one year, 75 per centum of the receipts are insufficient fully to meet the payments due the counties hereunder, the Secretary of the Treasury, upon certification by the Secretary of the Interior, may pay an additional sum from any surplus of 75 per centum of prior year receipts: *Provided, however*, That in no event shall the aggregate of payments during any ten-year period commencing with the period beginning July 1, 1940, exceed 75 per centum of the receipts deposited in the Treasury to the credit of the Coos Bay Wagon Road grant fund for such period: *Provided further*, That at the end of each ten-year period, any balance of the 75 per centum not required for payments to the counties shall be covered into the general fund of the Treasury of the United States.

(May 24, 1939, ch. 144, § 3, 53 Stat. 754.)

**§ 1181f–4. Amount available for administration of Coos Bay Wagon Road grant lands under sections 1181a to 1181f of this title; covering of unused receipts into general fund of Treasury**

Not to exceed 25 per centum of the annual receipts shall be available, in such amounts as the Congress shall from time to time appropriate for the administration of sections 1181a to 1181f of this title, insofar as such sections apply to the Coos Bay Wagon Road grant lands. Any balance not used for administrative purposes shall be covered into the general fund of the Treasury of the United States.

(May 24, 1939, ch. 144, § 4, 53 Stat. 754.)

**§ 1181g. Unselected and unpatented odd-numbered sections as revested grant lands; administration as national-forest lands; revenues; prohibition against disposition or exchange**

Those unselected and unpatented odd-numbered sections within the indemnity limits of the Oregon and California Railroad land grant authorized by the Act of July 25, 1866 (14 Stat. 239), as amended by the Act of April 10, 1869 (16 Stat. 47), and for which payment was made by the United States to such railroad or its successors in interest under the Act of June 9, 1916 (39 Stat. 218), pursuant to the decree in the case of United States against Oregon and California R. R. Co. (8 F. (2d) 645), which were included within the boundaries of national forests by proclamations of the President of the United States issued under the dates of June 17, 1892, September 28, 1893, October 5, 1906, January 25, 1907, March 1, 1907, and March 2, 1907, are declared to be revested Oregon and California Railroad grant lands; and said lands shall continue to be administered as national-forest lands by the Secretary of Agriculture subject to all laws, rules, and regulations applicable to the national forests: *Provided*, That all revenues hereafter derived from said lands and those revenues heretofore derived from such lands and placed in special deposit by agreement between the Secretary of Agriculture and the Secretary of the Interior shall be disposed of in accordance with the provisions of section 1181f of this title and said lands shall not hereafter be subject to the provisions of any other laws or parts of laws which otherwise prescribe the disposal or distribution of receipts from lands of the United States, except that none of the provisions of this Act shall affect revenues distributed prior to June 24, 1954. No part of said lands or the resources thereof shall be subject to exchange under the provisions of this or any other law applicable to national-forest lands or otherwise.

(June 24, 1954, ch. 357, § 1(a), 68 Stat. 270.)

REFERENCES IN TEXT

Acts July 25, 1866, April 10, 1869, and June 9, 1916, referred to in text, are acts July 25, 1866, ch. 242, 14 Stat. 239, Apr. 10, 1869, ch. 27, 16 Stat. 47, and June 9, 1916, ch. 137, 39 Stat. 218, respectively, which are not classified to the Code.

This Act, referred to in text, is act June 24, 1954, ch. 357, 68 Stat. 270, which enacted sections 1181g to 1181j of this title and amended section 1181f of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section constitutes subsec. (a) of section 1 of act June 24, 1954. Subsec. (b) of section 1 amended section 1181f(a) of this title.

**§ 1181h. Exchange of jurisdiction between Secretaries; conditions; publication in Federal Register**

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed, within two years after June 24, 1954, to exchange administrative jurisdiction of revested Oregon and California Railroad grant lands lying within the boundaries of any national forest or within two miles of such boundaries, and national-forest lands of approximately equal aggregate value, when by such exchange the administration of the lands will be facilitated. Such exchanges shall be made subject to outstanding contracts, permits or other existing rights: *Provided*, That the said national-forest lands, administrative jurisdiction of which is

transferred to the Secretary of the Interior, shall be excluded from the national forest and shall become subject to administration under the same provisions of law as the revested lands in exchange for which they were transferred, and the revested lands, administrative jurisdiction of which is transferred to the Secretary of Agriculture, shall become a part of the national forests subject to administration under the laws applicable to national forests: *Provided further*, That subject to the requirement of approximate equal aggregate value for the overall exchange, the revested lands and the national-forest lands, administrative jurisdiction of which is exchanged in any county, shall be approximately equal in area unless otherwise agreed to by the counties concerned. The exchanges provided for in this section shall in each case be evidenced by an order signed by the Secretary of the Interior and the Secretary of Agriculture and such orders shall be transmitted to the Division of the Federal Register for filing and publication.

(June 24, 1954, ch. 357, § 2, 68 Stat. 271.)

### § 1181i. Designation of national-forest areas within counties; disposition of revenues; approval by court

For the purpose of consolidating and thereby facilitating administration and accounting the Secretary of Agriculture is authorized to designate in the several counties in which the lands described in section 1181g of this title are situated (such designation to be published in the Federal Register), an area of national-forest land of a value substantially equal to the value of the lands in such county from which all revenues shall be disposed of in accordance with the provisions of section 1181f of this title, and upon such designation the provisions of sections 1181a to 1181f of this title shall be applicable to the lands so designated in lieu of the lands described in section 1181g of this title: *Provided, however*, That such designation shall not become effective until approved by the county court of the county in which the lands are located.

(June 24, 1954, ch. 357, § 3, 68 Stat. 271.)

### § 1181j. Appropriations to carry out sections 1181h and 1181i

For the purpose of carrying out the provisions of sections 1181h and 1181i of this title there are authorized to be appropriated such sums as the Congress may from time to time determine to be necessary.

(June 24, 1954, ch. 357, § 4, 68 Stat. 272.)

## SUBCHAPTER VI—DISPOSAL OF MATERIALS ON PUBLIC LANDS

### §§ 1185 to 1188. Transferred

CODIFICATION

Section 1185, acts July 31, 1947, ch. 406, § 1, 61 Stat. 681; July 23, 1955, ch. 375, § 1, 69 Stat. 367, which related to rules and regulations governing disposal of materials on public lands, was transferred to section 601 of Title 30, Mineral Lands and Mining.

Section 1186, act July 31, 1947, ch. 406, § 2, 61 Stat. 681, which related to bidding, advertisement, conditions for negotiation of contracts and reports to Congress, was transferred to section 602 of Title 30.

Section 1187, acts July 31, 1947, ch. 406, § 3, 61 Stat. 681; Aug. 31, 1950, ch. 830, 64 Stat. 571; July 23, 1955, ch. 375, § 2, 69 Stat. 368, which related to disposition on moneys from disposal of materials, was transferred to section 603 of Title 30.

Section 1188, act July 31, 1947, ch. 406, § 4, as added Aug. 31, 1950, ch. 830, 64 Stat. 572, which related to disposal of sand, gravel, etc., in Alaska and to contracts upon the entry of Alaska into the Union, was transferred to section 604 of Title 30.

## SUBCHAPTER VII—EVIDENCES OF TITLE

### §§ 1191 to 1193. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1191, R.S. § 2471, related to falsely making or altering instruments concerning lands, mines, or minerals in California.

Section 1192, R.S. § 2472, related to falsely dating evidence of title under Mexican authority to lands in California.

Section 1193, R.S. § 2473, related to presenting false or counterfeited evidences of title to lands in California.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER VIII—INDIAN LANDS

### § 1195. Negotiations for cession of lands

The Secretary of the Interior is authorized, in his discretion, to negotiate, through any United States Indian inspector, agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted lands, any agreements thus negotiated to be subject to subsequent ratification by Congress.

(Mar. 3, 1901, ch. 832, § 1, 31 Stat. 1077.)

CODIFICATION

Section was not enacted as part of act July 6, 1954, ch. 463, 68 Stat. 452, which comprises this subchapter.

### § 1196. Classification and appraisement of unallotted and unreserved lands

The Secretary of the Interior is authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands within any Indian reservation opened to settlement and entry but not classified and appraised in the manner provided for in the Act or Acts opening such reservations to settlement and entry, or where the existing classification or appraisement is, in the opinion of the Secretary of the Interior, erroneous.

(June 6, 1912, ch. 155, 37 Stat. 125.)

CODIFICATION

Section was not enacted as part of act July 6, 1954, ch. 463, 68 Stat. 452, which comprises this subchapter.

### § 1197. Agreements with Indians not affected

Nothing in this act shall change, repeal, or modify any agreements or treaties made with

any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements; except as provided in sections 161 and 162[1] of this title.

(Mar. 3, 1891, ch. 561, § 10, 26 Stat. 1099.)

REFERENCES IN TEXT

This act, referred to in text, means act Mar. 3, 1891, ch. 561, 26 Stat. 1095, as amended, which enacted sections 161, 162, 173, 174, 185, 202, 212, 321, 323, 325, 327 to 329, 663, 671, 687a–6, 718, 728, 732, 893, 946 to 949, 989, 1165, 1166, 1181, and 1197 of this title, sections 471, 607, 611, 611a, and 613 of Title 16, Conservation, section 495 of Title 25, Indians, and sections 30, 36, 44, 45, 48, and 52 of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Tables.

Sections 161 and 162 of this title, referred to in text, were repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

CODIFICATION

Section was not enacted as part of act July 6, 1954, ch. 463, 68 Stat. 452, which comprises this subchapter.

### § 1198. Condemnation of Sioux lands for dam purposes; negotiation of contracts

The Chief of Engineers, Department of the Army, and the Secretary of the Interior, jointly representing the United States of America are authorized and directed to negotiate separate contracts containing the provisions outlined in this subchapter with the Sioux Indians of the Lower Brule Reservation, South Dakota, and with the Sioux Indians of the Crow Creek Reservation, South Dakota, acting through representatives of each tribe appointed for such purpose by its tribal council.

(July 6, 1954, ch. 463, § 1, 68 Stat. 452.)

### § 1199. Provisions to be included in contracts for condemnation of Sioux lands for dam purposes

The contract with each tribe negotiated pursuant to section 1198 of this title shall—

(a) convey to the United States title to all tribal, allotted, assigned, and inherited lands or interests therein belonging to the Indians of the tribe, and title to all undivided interests in such allotted or inherited lands owned by non-Indians or by Indian nonmembers of the tribe, required by the United States for the reservoir to be created by the construction of the dams across the Missouri River in South Dakota, to be known as Fort Randall Dam, including such lands along the margins as may be required by the Chief of Engineers, Department of the Army, for the protection, development, and use of said reservoir: *Provided*, That the contract may provide for retention by the owners of any oil and gas rights in such lands that are not needed by the United States for the protection of such dam and reservoir;

(b) provide for the payment of—

(1) just compensation for the lands and improvements and interests therein conveyed by the contract;

(2) costs of relocating the tribe and its members who reside upon the lands conveyed by the contract in a manner that will reestablish and protect their economic, social, religious, and community life;

(3) costs of relocating Indian cemeteries, tribal monuments, and shrines located upon the lands conveyed by the contract.

(c) Provide a schedule of dates for the orderly removal of the Indians and their personal property from the taking area of the Fort Randall Reservoir within the reservation; and

(d) State that the payments authorized to be made shall be in full and complete settlement of all claims by the tribe and its members against the United States arising because of the construction of the Fort Randall project.

(July 6, 1954, ch. 463, § 2, 68 Stat. 452.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88–97, Aug. 15, 1963, 77 Stat. 124.

### § 1200. Judicial determination where compensation for condemnation of Sioux lands for dam purposes rejected

The just compensation payable for the individual property of any person conveyed pursuant to subsection (a) of section 1199 of this title shall be judicially determined, if such person rejects the compensation specified in the contract with the tribe, in proceedings instituted for such purpose by the Department of the Army in the United States district court for the district in which the lands are situated.

(July 6, 1954, ch. 463, § 3, 68 Stat. 453.)

### § 1200a. Preparation of appraisal schedule in determining just compensation for condemnation of Sioux lands for dam purposes; contents; transmittal to tribal representatives

To assist the negotiators in arriving at the amount of just compensation payable for the property conveyed pursuant to subsection (a) of section 1199 of this title, the Secretary of the Interior and the Chief of Engineers, Department of the Army, shall cause to be prepared an appraisal schedule on an individual tract basis of the tribal, allotted, and assigned lands, including heirship interests therein, located within the taking area in each reservation. The appraisal schedule shall show the fair market value of the lands, giving full and proper weight to the following elements of appraisal, among others: Improvements, severance damage, standing timber, mineral rights, and the uses to which the lands are reasonably adapted. The appraisal schedule shall be transmitted to the representatives of the tribe appointed to negotiate a contract, and shall be used, together with any other appraisals which may be available, as a basis for determining the amount of just compensation to be included in the contract.

(July 6, 1954, ch. 463, § 4, 68 Stat. 453.)

### § 1200b. Inclusion of other provisions in contracts for condemnation of Sioux lands for dam purposes

The specification in section 1199 of this title of certain provisions to be included in each con-

[1] See References in Text note below.

tract shall not preclude the inclusion of other provisions beneficial to the Indians who are parties of such contracts.

(July 6, 1954, ch. 463, § 5, 68 Stat. 453.)

### § 1200c. Submission of contracts and reports covering disagreements on condemnation of Sioux lands for dam purposes; ratification; effect

Each contract negotiated pursuant to this subchapter shall be submitted to the Congress for approval. The Chief of Engineers, Department of the Army, and the Secretary of the Interior are requested to submit such contract within one year from July 6, 1954. If the negotiating parties are unable to agree on a proposed contract each party shall submit to the Congress separate detailed reports of the negotiations, together with their recommendations. In the event the negotiating parties are unable to agree on any provision in the proposed contracts such provision shall be included in an appendix to the contract, together with the views of each party, for consideration and determination by Congress. The contract shall not take effect unless, after determination of any disputed provision, it is ratified by Act of Congress and is ratified within six months after such action by the Congress by a majority of the adult members of the tribe: *Provided*, That when so ratified the contract shall constitute a taking by the United States as of the date the contract was signed by the Chief of Engineers, Department of the Army, and the Secretary of the Interior, for purposes of determining the ownership of the Indian tribal, allotted, and assigned lands and interests therein.

(July 6, 1954, ch. 463, § 6, 68 Stat. 453.)

### § 1200d. Effect of condemnation of Sioux lands for dam purposes on construction of Fort Randall Dam

Nothing in this subchapter shall be construed to restrict completion of the Fort Randall Dam to provide flood protection and other benefits on the Missouri River.

(July 6, 1954, ch. 463, § 7, 68 Stat. 453.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88–97, Aug. 15, 1963, 77 Stat. 124.

### § 1200e. Authorization of appropriations for relocating certain Sioux tribe members after condemnation of lands for dam purposes; conditions; title to lands acquired

There is authorized to be appropriated to the Secretary of the Interior the sum of $106,500, which shall be available until expended for the purpose of relocating the members of the Yankton Sioux Tribe, South Dakota, who reside or have resided, on tribal and allotted lands acquired by the United States for the Fort Randall Dam and Reservoir project, Missouri River Development, in a manner that will reestablish and protect their economic, social, religious, and community life. Title to any lands acquired within Indian country pursuant to this section shall be taken in the name of the United States in trust for the Yankton Sioux Tribe or members thereof. The said sum of $106,500 shall be assessed against the costs of the Fort Randall Dam and Reservoir, Missouri River Development.

(July 6, 1954, ch. 463, § 8, 68 Stat. 453.)

CHANGE OF NAME

Fort Randall Reservoir redesignated Lake Francis Case by Pub. L. 88–97, Aug. 15, 1963, 77 Stat. 124.

## SUBCHAPTER IX—ENFORCEMENT OF PROVISIONS

### § 1201. Power of Secretary or designated officer

The Secretary of the Interior, or such officer as he may designate, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of title 32 of the Revised Statutes not otherwise specially provided for.

(R.S. § 2478; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Title 32 of the Revised Statutes, referred to in text, was in the original ''this Title'', meaning title 32 of the Revised Statutes, consisting of R.S. §§ 2207 to 2490. For complete classification of R.S. §§ 2207 to 2490 to the Code, see Tables.

CODIFICATION

R.S. § 2478 derived from acts Sept. 28, 1850, ch. 84, §§ 1, 4, 9 Stat. 520; Mar. 12, 1860, ch. 5, § 1, 12 Stat. 3; Feb. 19, 1874, ch. 30, 18 Stat. 16.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Secretary of the Interior or such officer as he may designate'' substituted for ''Commissioner of the General Land Office, under the directions of the Secretary of the Interior'' on authority of section 403 of Reorg. Plan No. 3 of 1946. See note set out under section 1 of this title.

## SUBCHAPTER X—OATHS IN CERTAIN LAND MATTERS

### § 1211. Elimination of oaths for written statements; discretion of Secretary of the Interior

Written statement in public land matters within the jurisdiction of the Department of the Interior, heretofore required by law to be made under oath, need no longer be made under oath unless the Secretary of the Interior shall, in his discretion, so require.

(June 3, 1948, ch. 392, § 1, 62 Stat. 301.)

### § 1212. Unsworn written statements subject to penalties of presenting false claims

Unsworn written statements made in public land matters within the jurisdiction of the Department of the Interior shall remain subject to section 1001 of title 18.

(June 3, 1948, ch. 392, § 2, 62 Stat. 301.)

CODIFICATION

''Section 1001 of title 18'' substituted in text for ''section 35(A) of the Criminal Code (35 Stat. 1095, 18 U.S.C.

sec. 80), as amended'' on authority of act June 25, 1948, ch. 645, 62 Stat. 683, the first section of which enacted Title 18, Crimes and Criminal Procedure.

EXEMPTION OF DEPARTMENT OF THE INTERIOR FROM RESTRICTIONS ON NOTARY PUBLIC

Section 3 of act June 3, 1948, provided: ''That part of section 558 of the Act of March 3, 1901, entitled 'An Act to establish a code of law for the District of Columbia' (31 Stat. 1279), as amended December 15, 1944 (58 Stat. 810, D.C. Code, 1951 edition, sec. 1–501), which reads as follows: '*And provided further*, That no notary public shall be authorized to take acknowledgments, administer oaths, certify papers, or perform any official acts in connection with matters in which he is employed as counsel, attorney or agent or in which he may be in any way interested before any of the Departments aforesaid' shall not apply to matters before the Department of the Interior.''

## SUBCHAPTER XI—WISCONSIN RIVER AND LAKE LAND TITLES

### § 1221. Issuance of patents; application

Whenever it shall be shown to the satisfaction of the Secretary of the Interior that a tract of public land, lying between the meander line of an inland lake or river in Wisconsin as originally surveyed and the meander line of that lake or river as subsequently resurveyed, has been held in good faith and in peaceful, adverse possession by a person, or his predecessors in interest, who had been issued a patent, prior to January 21, 1953, for lands lying along the meander line as originally determined, the Secretary of the Interior shall cause a patent to be issued to such person for such land upon the payment of the same price per acre as that at which the land included in the original patent was purchased and upon the same terms and conditions. All persons seeking to purchase lands under this subchapter shall make application to the Secretary within one year from August 24, 1954, or from the date of the official filing of the plat or resurvey, whichever is later, and the Secretary of the Interior shall cause no patents to be issued for land lying between the original meander line and the resurveyed meander line until the conclusion of such periods.

(Aug. 24, 1954, ch. 900, § 1, 68 Stat. 789.)

### § 1222. Notice of opening of lands to purchase

Upon the filing of a plat of resurvey under section 1221 of this title the Secretary shall give such notice as he finds appropriate by newspaper publication or otherwise of the opening of the lands to purchase under this subchapter.

(Aug. 24, 1954, ch. 900, § 2, 68 Stat. 790.)

### § 1223. Valid existing rights unaffected

Nothing in this subchapter shall affect valid existing rights.

(Aug. 24, 1954, ch. 900, § 3, 68 Stat. 790.)

## SUBCHAPTER XII—MOVING EXPENSES RESULTING FROM ACQUISITION OF LANDS BY SECRETARY OF THE INTERIOR

### §§ 1231 to 1234. Repealed. Pub. L. 91–646, title II, § 220(a)(1), Jan. 2, 1971, 84 Stat. 1903

Section 1231, Pub. L. 85–433, § 1, May 29, 1958, 72 Stat. 152, related to payment of moving expenses to owners and tenants of land acquired for developments and to applications for payments.

Section 1232, Pub. L. 85–433, § 2, May 29, 1958, 72 Stat. 152, related to administration and rules and regulations.

Section 1233, Pub. L. 85–433, § 3, May 29, 1958, 72 Stat. 152, related to definitions.

Section 1234, Pub. L. 85–433, § 4, May 29, 1958, 72 Stat. 152, related to availability of appropriations. See section 4601 et seq. of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 2, 1971, see section 221 of Pub. L. 91–646, set out as an Effective Date note under section 4601 of Title 42, The Public Health and Welfare.

SAVINGS PROVISION

Any rights or liabilities existing under provisions repealed by section 220(a) of Pub. L. 91–646 as not affected by such repeal, see section 220(b) of Pub. L. 91–646, set out as a note under section 4621 of Title 42, The Public Health and Welfare.

## SUBCHAPTER XIII—STATE CONTROL OF NOXIOUS PLANTS ON GOVERNMENT LANDS

### § 1241. Control of noxious plants on Government lands; State programs; terms of entry

The heads of Federal departments or agencies are authorized and directed to permit the commissioner of agriculture or other proper agency head of any State in which there is in effect a program for the control of noxious plants to enter upon any lands under their control or jurisdiction and destroy noxious plants growing on such land if—

(1) such entry is in accordance with a program submitted to and approved by such department or agency: *Provided*, That no entry shall occur when the head of such Federal department or agency, or his designee, shall have certified that entry is inconsistent with national security;

(2) the means by which noxious plants are destroyed are acceptable to the head of such department or agency; and

(3) the same procedure required by the State program with respect to privately owned land has been followed.

(Pub. L. 90–583, § 1, Oct. 17, 1968, 82 Stat. 1146.)

### § 1242. Reimbursement of States for expenses

Any State incurring expenses pursuant to section 1241 of this title upon presentation of an itemized account of such expenses shall be reimbursed by the head of the department or agency having control or jurisdiction of the land with respect to which such expenses were incurred: *Provided*, That such reimbursement shall be only to the extent that funds appropriated specifically to carry out the purposes of this subchapter are available therefor during the fiscal year in which the expenses are incurred.

(Pub. L. 90–583, § 2, Oct. 17, 1968, 82 Stat. 1146.)

### § 1243. Authorization of appropriations

There are hereby authorized to be appropriated to departments or agencies of the Federal Government such sums as the Congress may determine to be necessary to carry out the purposes of this subchapter.

(Pub. L. 90–583, § 3, Oct. 17, 1968, 82 Stat. 1146.)

## CHAPTER 29—SUBMERGED LANDS

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SUBCHAPTER I—GENERAL PROVISIONS

### § 1301. Definitions

When used in this subchapter and subchapter II of this chapter—

(a) The term ''lands beneath navigable waters'' means—

(1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;

(2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress, extends seaward (or into the Gulf of Mexico) beyond three geographical miles, and

(3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined;

(b) The term ''boundaries'' includes the seaward boundaries of a State or its boundaries in the Gulf of Mexico or any of the Great Lakes as they existed at the time such State became a member of the Union, or as heretofore approved by the Congress, or as extended or confirmed pursuant to section 1312 of this title but in no event shall the term ''boundaries'' or the term ''lands beneath navigable waters'' be interpreted as extending from the coast line more than three geographical miles into the Atlantic Ocean or the Pacific Ocean, or more than three marine leagues into the Gulf of Mexico, except that any boundary between a State and the United States under this subchapter or subchapter II of this chapter which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory;

(c) The term ''coast line'' means the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters;

(d) The terms ''grantees'' and ''lessees'' include (without limiting the generality thereof) all political subdivisions, municipalities, public and private corporations, and other persons holding grants or leases from a State, or from its predecessor sovereign if legally validated, to lands beneath navigable waters if such grants or leases were issued in accordance with the constitution, statutes, and decisions of the courts of the State in which such lands are situated, or of its predecessor sovereign: *Provided*, *however*, That nothing herein shall be construed as conferring upon said grantees or lessees any greater rights or interests other than are described herein and in their respective grants from the State, or its predecessor sovereign;

(e) The term ''natural resources'' includes, without limiting the generality thereof, oil, gas, and all other minerals, and fish, shrimp, oysters, clams, crabs, lobsters, sponges, kelp, and other marine animal and plant life but does not include water power, or the use of water for the production of power;

(f) The term ''lands beneath navigable waters'' does not include the beds of streams in lands now or heretofore constituting a part of the pub-

lic lands of the United States if such streams were not meandered in connection with the public survey of such lands under the laws of the United States and if the title to the beds of such streams was lawfully patented or conveyed by the United States or any State to any person;

(g) The term ''State'' means any State of the Union;

(h) The term ''person'' includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

(May 22, 1953, ch. 65, title I, § 2, 67 Stat. 29; Pub. L. 99–272, title VIII, § 8005, Apr. 7, 1986, 100 Stat. 151.)

AMENDMENTS

1986—Subsec. (b). Pub. L. 99–272 inserted '', except that any boundary between a State and the United States under this subchapter or subchapter II of this chapter which has been or is hereafter fixed by coordinates under a final decree of the United States Supreme Court shall remain immobilized at the coordinates provided under such decree and shall not be ambulatory''.

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–58, title III, § 301, Nov. 28, 1995, 109 Stat. 563, provided that: ''This title [amending section 1337 of this title and enacting provisions set out as notes under section 1337 of this title] may be referred to as the 'Outer Continental Shelf Deep Water Royalty Relief Act'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–367, § 1, July 31, 1986, 100 Stat. 774, provided: ''That this Act [enacting section 1865 of this title, amending section 1343 of this title, and repealing section 1861 of this title] may be referred to as the 'OCS Paperwork and Reporting Act'.''

Section 8001 of title VIII of Pub. L. 99–272 provided that: ''This title [amending this section and sections 1332 and 1337 of this title and enacting provisions set out as a note under section 1337 of this title] may be referred to as the 'Outer Continental Shelf Lands Act Amendments of 1985'.''

SHORT TITLE

Section 1 of act May 22, 1953, provided that: ''This Act [enacting subchapters I and II of this chapter] may be cited as the 'Submerged Lands Act'.''

Section 1 of act Aug. 7, 1953, ch. 345, 67 Stat. 462, provided that: ''This Act [enacting subchapter III of this chapter] may be cited as the 'Outer Continental Shelf Lands Act'.''

SEPARABILITY

Section 11 of act May 22, 1953, provided that: ''If any provision of this Act [enacting subchapters I and II of this chapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby; without limiting the generality of the foregoing, if subsection 3(a)1, 3(a)2, 3(b)1, 3(b)2, 3(b)3, or 3(c) [section 1311(a)(1), (a)(2), (b)(1), (b)(2), (b)(3), (c) of this title] or any provision of any of those subsections is held invalid, such subsection or provision shall be held separable and the remaining subsections and provisions shall not be affected thereby.''

NAVAL PETROLEUM RESERVE

Section 10 of act May 22, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F.R. 405, ''insofar as it applies to any lands beneath navigable waters as defined in section 2 hereof [this section]''. Ex. Ord. 10426 set aside certain submerged lands as a naval petroleum reserve and transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

APPLICATION TO STATE OF ALASKA

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Applicability of subchapters I and II of this chapter to the State of Alaska, see section 6(m) of Pub. L. 85–508, set out as a note preceding section 21 of Title 48.

APPLICATION TO STATE OF HAWAII

Applicability of this chapter to the State of Hawaii, see section 5(i) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 6, set out as a note preceding section 491 of Title 48, Territories and Insular Possessions.

## § 1302. Resources seaward of Continental Shelf

Nothing in this subchapter or subchapter II of this chapter shall be deemed to affect in any wise the rights of the United States to the natural resources of that portion of the subsoil and seabed of the Continental Shelf lying seaward and outside of the area of lands beneath navigable waters, as defined in section 1301 of this title, all of which natural resources appertain to the United States, and the jurisdiction and control of which by the United States is confirmed.

(May 22, 1953, ch. 65, title II, § 9, 67 Stat. 32.)

## § 1303. Amendment, modification, or repeal of other laws

Nothing in this subchapter or subchapter II of this chapter shall be deemed to amend, modify, or repeal the Acts of July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), March 3, 1877 (19 Stat. 377), June 17, 1902 (32 Stat. 388), and December 22, 1944 (58 Stat. 887), and Acts amendatory thereof or supplementary thereto.

(May 22, 1953, ch. 65, title II, § 7, 67 Stat. 32.)

REFERENCES IN TEXT

Act July 26, 1866 (14 Stat. 251), referred to in text, is act July 26, 1866, ch. 262, 14 Stat. 251, which is not classified to the Code.

Act July 9, 1870 (16 Stat. 217), referred to in text, is act July 9, 1870, ch. 235, 16 Stat. 217, which is not classified to the Code.

Act March 3, 1877 (19 Stat. 377), referred to in text, is act Mar. 3, 1877, ch. 107, 19 Stat. 377, as amended, popularly known as the Desert Lands Act, which is classified generally to sections 321 to 323, 325, and 327 to 329 of this title. For complete classification of this Act to the Code, see Tables.

Act June 17, 1902 (32 Stat. 388), referred to in text, is popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371) 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.

Act December 22, 1944 (58 Stat. 887), referred to in text, is act Dec. 22, 1944, ch. 665, 58 Stat. 887, as amended, which enacted section 390 of this title, sections 460d and 825s of Title 16, Conservation, and sections 701–1, 701a–1, 708, and 709 of Title 33, Navigation and Navigable Waters, amended section 701b–1 of Title 33, and enacted provisions set out as notes under section 701f of Title 33. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER II—LANDS BENEATH NAVIGABLE WATERS WITHIN STATE BOUNDARIES

### § 1311. Rights of States

**(a) Confirmation and establishment of title and ownership of lands and resources; management, administration, leasing, development, and use**

It is determined and declared to be in the public interest that (1) title to and ownership of the lands beneath navigable waters within the boundaries of the respective States, and the natural resources within such lands and waters, and (2) the right and power to manage, administer, lease, develop, and use the said lands and natural resources all in accordance with applicable State law be, and they are, subject to the provisions hereof, recognized, confirmed, established, and vested in and assigned to the respective States or the persons who were on June 5, 1950, entitled thereto under the law of the respective States in which the land is located, and the respective grantees, lessees, or successors in interest thereof;

**(b) Release and relinquishment of title and claims of United States; payment to States of moneys paid under leases**

(1) The United States releases and relinquishes unto said States and persons aforesaid, except as otherwise reserved herein, all right, title, and interest of the United States, if any it has, in and to all said lands, improvements, and natural resources; (2) the United States releases and relinquishes all claims of the United States, if any it has, for money or damages arising out of any operations of said States or persons pursuant to State authority upon or within said lands and navigable waters; and (3) the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States shall pay to the respective States or their grantees issuing leases covering such lands or natural resources all moneys paid thereunder to the Secretary of the Interior or to the Secretary of the Navy or to the Treasurer of the United States and subject to the control of any of them or to the control of the United States on May 22, 1953, except that portion of such moneys which (1) is required to be returned to a lessee; or (2) is deductible as provided by stipulation or agreement between the United States and any of said States;

**(c) Leases in effect on June 5, 1950**

The rights, powers, and titles hereby recognized, confirmed, established, and vested in and assigned to the respective States and their grantees are subject to each lease executed by a State, or its grantee, which was in force and effect on June 5, 1950, in accordance with its terms and provisions and the laws of the State issuing, or whose grantee issued, such lease, and such rights, powers, and titles are further subject to the rights herein now granted to any person holding any such lease to continue to maintain the lease, and to conduct operations thereunder, in accordance with its provisions, for the full term thereof, and any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued such lease: *Provided, however*, That, if oil or gas was not being produced from such lease on and before December 11, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from May 22, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of the State issuing, or whose grantee issued, such lease: *Provided, however*, That within ninety days from May 22, 1953 (i) the lessee shall pay to the State or its grantee issuing such lease all rents, royalties, and other sums payable between June 5, 1950, and May 22, 1953, under such lease and the laws of the State issuing or whose grantee issued such lease, except such rents, royalties, and other sums as have been paid to the State, its grantee, the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States and not refunded to the lessee; and (ii) the lessee shall file with the Secretary of the Interior or the Secretary of the Navy and with the State issuing or whose grantee issued such lease, instruments consenting to the payment by the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States to the State or its grantee issuing the lease, of all rents, royalties, and other payments under the control of the Secretary of the Interior or the Secretary of the Navy or the Treasurer of the United States or the United States which have been paid, under the lease, except such rentals, royalties, and other payments as have also been paid by the lessee to the State or its grantee;

**(d) Authority and rights of United States respecting navigation, flood control and production of power**

Nothing in this subchapter or subchapter I of this chapter shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of said lands and waters for the purposes of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power;

**(e) Ground and surface waters west of 98th meridian**

Nothing in this subchapter or subchapter I of this chapter shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian, relating to the ownership and control of ground and surface waters; and the control, appropriation, use, and distribution of such waters shall continue to be in accordance with the laws of such States.

(May 22, 1953, ch. 65, title II, § 3, 67 Stat. 30.)

SEPARABILITY

Provisions of this section as separable, see section 11 of act May 22, 1953, set out as a note under section 1301 of this title.

### § 1312. Seaward boundaries of States

The seaward boundary of each original coastal State is approved and confirmed as a line three geographical miles distant from its coast line or, in the case of the Great Lakes, to the international boundary. Any State admitted subsequent to the formation of the Union which has not already done so may extend its seaward boundaries to a line three geographical miles distant from its coast line, or to the international boundaries of the United States in the Great Lakes or any other body of water traversed by such boundaries. Any claim heretofore or hereafter asserted either by constitutional provision, statute, or otherwise, indicating the intent of a State so to extend its boundaries is approved and confirmed, without prejudice to its claim, if any it has, that its boundaries extend beyond that line. Nothing in this section is to be construed as questioning or in any manner prejudicing the existence of any State's seaward boundary beyond three geographical miles if it was so provided by its constitution or laws prior to or at the time such State became a member of the Union, or if it has been heretofore approved by Congress.

(May 22, 1953, ch. 65, title II, § 4, 67 Stat. 31.)

### § 1313. Exceptions from operation of section 1311 of this title

There is excepted from the operation of section 1311 of this title—

(a) all tracts or parcels of land together with all accretions thereto, resources therein, or improvements thereon, title to which has been lawfully and expressly acquired by the United States from any State or from any person in whom title had vested under the law of the State or of the United States, and all lands which the United States lawfully holds under the law of the State; all lands expressly retained by or ceded to the United States when the State entered the Union (otherwise than by a general retention or cession of lands underlying the marginal sea); all lands acquired by the United States by eminent domain proceedings, purchase, cession, gift, or otherwise in a proprietary capacity; all lands filled in, built up, or otherwise reclaimed by the United States for its own use; and any rights the United States has in lands presently and actually occupied by the United States under claim of right;

(b) such lands beneath navigable waters held, or any interest in which is held by the United States for the benefit of any tribe, band, or group of Indians or for individual Indians; and

(c) all structures and improvements constructed by the United States in the exercise of its navigational servitude.

(May 22, 1953, ch. 65, title II, § 5, 67 Stat. 32.)

### § 1314. Rights and powers retained by United States; purchase of natural resources; condemnation of lands

(a) The United States retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective States and others by section 1311 of this title.

(b) In time of war or when necessary for national defense, and the Congress or the President shall so prescribe, the United States shall have the right of first refusal to purchase at the prevailing market price, all or any portion of the said natural resources, or to acquire and use any portion of said lands by proceeding in accordance with due process of law and paying just compensation therefor.

(May 22, 1953, ch. 65, title II, § 6, 67 Stat. 32.)

### § 1315. Rights acquired under laws of United States unaffected

Nothing contained in this subchapter or subchapter I of this chapter shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter or subchapter I of this chapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing contained in this subchapter or subchapter I of this chapter is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact or in law applies to the lands subject to this subchapter or subchapter I of this chapter, or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything contained in this subchapter or subchapter I of this chapter.

(May 22, 1953, ch. 65, title II, § 8, 67 Stat. 32.)

## SUBCHAPTER III—OUTER CONTINENTAL SHELF LANDS

### § 1331. Definitions

When used in this subchapter—

(a) The term ''outer Continental Shelf'' means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

(b) The term ''Secretary'' means the Secretary of the Interior, except that with respect to functions under this subchapter transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term ''Secretary'' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

(c) The term ''lease'' means any form of authorization which is issued under section 1337 of

this title or maintained under section 1335 of this title and which authorizes exploration for, and development and production of, minerals;

(d) The term ''person'' includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation;

(e) The term ''coastal zone'' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 1454(b)(1)[1] of title 16;

(f) The term ''affected State'' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this subchapter, any State—

(1) the laws of which are declared, pursuant to section 1333(a)(2) of this title, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 1333(a)(1) of this title;

(3) which is receiving, or in accordnace[2] with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

(g) The term ''marine environment'' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

(h) The term ''coastal environment'' means the physical atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

(i) The term ''human environment'' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

(j) The term ''Governor'' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this subchapter;

(k) The term ''exploration'' means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

(*l*) The term ''development'' means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

(m) The term ''production'' means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

(n) The term ''antitrust law'' means—

(1) the Sherman Act (15 U.S.C. 1 et seq.);

(2) the Clayton Act (15 U.S.C. 12 et seq.);

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

(*o*) The term ''fair market value'' means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such

[1] See References in Text note below.

[2] So in original. Probably should be ''accordance''.

period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

(p) The term ''major Federal action'' means any action or proposal by the Secretary which is subject to the provisions of section 4332(2)(C) of title 42; and

(q) The term ''minerals'' includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from ''public lands'' as defined in section 1702 of this title.

(Aug. 7, 1953, ch. 345, § 2, 67 Stat. 462; Pub. L. 95–372, title II, § 201, Sept. 18, 1978, 92 Stat. 632.)

REFERENCES IN TEXT

The Department of Energy Organization Act, referred to in subsec. (b), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§ 7101 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 7101 of Title 42 and Tables.

Section 1454(b) of title 16, referred to in subsec. (e), was amended generally by Pub. L. 101–508, title VI, § 6205, Nov. 5, 1990, 104 Stat. 1388–302, and, as so amended, does not contain a par. (1).

The Sherman Act, referred to in subsec. (n)(1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act, referred to in subsec. (n)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (n)(3), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Wilson Tariff Act, referred to in subsec. (n)(4), is act Aug. 27, 1894, ch. 349, §§ 73 to 77, 28 Stat. 570, as amended. Sections 73 to 76 enacted sections 8 to 11 of Title 15. Section 77 is not classified to the Code. For complete classification of this Act to the Code, see Short Title note set out under section 8 of Title 15 and Tables.

Act of June 19, 1936, referred to in subsec. (n)(5), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Act, the Robinson-Patman Antidiscrimination Act, and the Robinson-Patman Price Discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–372, § 201(a), inserted provision that, with respect to functions under this subchapter transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act, ''Secretary'' means the Secretary of Energy or the Federal Energy Regulatory Commission, as the case may be.

Subsec. (c). Pub. L. 95–372, § 201(a), substituted ''lease'' for ''mineral lease'' as term defined and in definition of that term substituted ''any form of authorization which is issued under section 1337 of this title or maintained under section 1335 of this title and which authorizes exploration for, and development and production of, minerals;'' for ''any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and''.

Subsec. (d). Pub. L. 95–372, § 201(b)(1), substituted semicolon for period at end.

Subsecs. (e) to (q). Pub. L. 95–372, § 201(b)(2), added subsecs. (e) to (q).

SHORT TITLE OF 1978 AMENDMENT

For short title of Pub. L. 95–372 as the ''Outer Continental Shelf Lands Act Amendments of 1978'', see section 1 of Pub. L. 95–372, set out as a Short Title note under section 1801 of this title.

SHORT TITLE

For short title of act Aug. 7, 1953, which enacted this subchapter, as the ''Outer Continental Shelf Lands Act'', see section 1 of act Aug. 7, 1953, set out as a note under section 1301 of this chapter.

SEPARABILITY

Section 17 of act Aug. 7, 1953, provided that: ''If any provision of this Act [enacting this subchapter], or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.''

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

GULF OF MEXICO ENERGY SECURITY

Pub. L. 109–432, div. C, title I, Dec. 20, 2006, 120 Stat. 3000, provided that:

''SEC. 101. SHORT TITLE.

''This title may be cited as the 'Gulf of Mexico Energy Security Act of 2006'.

''SEC. 102. DEFINITIONS.

''In this title:

''(1) 181 AREA.—The term '181 Area' means the area identified in map 15, page 58, of the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service, available in the Office of the Director of the Minerals Management Service, excluding the area offered in OCS Lease Sale 181, held on December 5, 2001.

''(2) 181 SOUTH AREA.—The term '181 South Area' means any area—

''(A) located—

''(i) south of the 181 Area;

''(ii) west of the Military Mission Line; and

''(iii) in the Central Planning Area;

''(B) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for

1997–2002, dated August 1996, of the Minerals Management Service; and

''(C) included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled 'Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012', dated February 2006.

''(3) BONUS OR ROYALTY CREDIT.—The term 'bonus or royalty credit' means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

''(A) a bonus bid for a lease on the outer Continental Shelf; or

''(B) a royalty due on oil or gas production from any lease located on the outer Continental Shelf.

''(4) CENTRAL PLANNING AREA.—The term 'Central Planning Area' means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled 'Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012', dated February 2006.

''(5) EASTERN PLANNING AREA.—The term 'Eastern Planning Area' means the Eastern Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled 'Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012', dated February 2006.

''(6) 2002–2007 PLANNING AREA.—The term '2002–2007 planning area' means any area—

''(A) located in—

''(i) the Eastern Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service;

''(ii) the Central Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; or

''(iii) the Western Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; and

''(B) not located in—

''(i) an area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as in effect on August 2, 2005);

''(ii) an area withdrawn from leasing under the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

''(iii) the 181 Area or 181 South Area.

''(7) GULF PRODUCING STATE.—The term 'Gulf producing State' means each of the States of Alabama, Louisiana, Mississippi, and Texas.

''(8) MILITARY MISSION LINE.—The term 'Military Mission Line' means the north-south line at 86°41′ W. longitude.

''(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means—

''(i) in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this Act [Dec. 20, 2006] for—

''(I) areas in the 181 Area located in the Eastern Planning Area; and

''(II) the 181 South Area; and

''(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for—

''(I) the 181 Area;

''(II) the 181 South Area; and

''(III) the 2002–2007 planning area.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold; or

''(ii) revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

''(10) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a Gulf producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of the date of enactment of this Act [Dec. 20, 2006]; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(11) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''SEC. 103. OFFSHORE OIL AND GAS LEASING IN 181 AREA AND 181 SOUTH AREA OF GULF OF MEXICO.

''(a) 181 AREA LEASE SALE.—Except as provided in section 104, the Secretary shall offer the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this Act [Dec. 20, 2006].

''(b) 181 SOUTH AREA LEASE SALE.—The Secretary shall offer the 181 South Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable after the date of enactment of this Act [Dec. 20, 2006].

''(c) LEASING PROGRAM.—The 181 Area and 181 South Area shall be offered for lease under this section notwithstanding the omission of the 181 Area or the 181 South Area from any outer Continental Shelf leasing program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

''(d) CONFORMING AMENDMENT.—[Amended section 105 of Pub. L. 109–54, 119 Stat. 522.]

''SEC. 104. MORATORIUM ON OIL AND GAS LEASING IN CERTAIN AREAS OF GULF OF MEXICO.

''(a) IN GENERAL.—Effective during the period beginning on the date of enactment of this Act [Dec. 20, 2006] and ending on June 30, 2022, the Secretary shall not offer for leasing, preleasing, or any related activity—

''(1) any area east of the Military Mission Line in the Gulf of Mexico;

''(2) any area in the Eastern Planning Area that is within 125 miles of the coastline of the State of Florida; or

''(3) any area in the Central Planning Area that is—

''(A) within—

''(i) the 181 Area; and

''(ii) 100 miles of the coastline of the State of Florida; or

''(B)(i) outside the 181 Area;

''(ii) east of the western edge of the Pensacola Official Protraction Diagram (UTM X coordinate 1,393,920 (NAD 27 feet)); and

''(iii) within 100 miles of the coastline of the State of Florida.

''(b) MILITARY MISSION LINE.—Notwithstanding subsection (a), the United States reserves the right to designate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

''(c) EXCHANGE OF CERTAIN LEASES.—

''(1) IN GENERAL.—The Secretary shall permit any person that, as of the date of enactment of this Act [Dec. 20, 2006], has entered into an oil or gas lease

with the Secretary in any area described in paragraph (2) or (3) of subsection (a) to exchange the lease for a bonus or royalty credit that may only be used in the Gulf of Mexico.

''(2) VALUATION OF EXISTING LEASE.—The amount of the bonus or royalty credit for a lease to be exchanged shall be equal to—

''(A) the amount of the bonus bid; and

''(B) any rental paid for the lease as of the date the lessee notifies the Secretary of the decision to exchange the lease.

''(3) REVENUE DISTRIBUTION.—No bonus or royalty credit may be used under this subsection in lieu of any payment due under, or to acquire any interest in, a lease subject to the revenue distribution provisions of section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

''(4) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that shall provide a process for—

''(A) notification to the Secretary of a decision to exchange an eligible lease;

''(B) issuance of bonus or royalty credits in exchange for relinquishment of the existing lease;

''(C) transfer of the bonus or royalty credit to any other person; and

''(D) determining the proper allocation of bonus or royalty credits to each lease interest owner.

''SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002–2007 PLANNING AREAS OF GULF OF MEXICO.

''(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

''(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(A) 75 percent to Gulf producing States in accordance with subsection (b); and

''(B) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460*l*–5).

''(b) ALLOCATION AMONG GULF PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(1) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEARS 2007 THROUGH 2016.—

''(A) IN GENERAL.—Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.

''(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

''(2) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEAR 2017 AND THEREAFTER.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter—

''(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; and

''(ii) the amount made available under subsection (a)(2)(A) from any lease entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

''(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

''(C) HISTORICAL LEASE SITES.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A)(ii), the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

''(ii) ADJUSTMENT.—Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.

''(3) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (2), to the coastal political subdivisions of the Gulf producing State.

''(B) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).

''(c) TIMING.—The amounts required to be deposited under paragraph (2) of subsection (a) for the applicable fiscal year shall be made available in accordance with that paragraph during the fiscal year immediately following the applicable fiscal year.

''(d) AUTHORIZED USES.—

''(1) IN GENERAL.—Subject to paragraph (2), each Gulf producing State and coastal political subdivision shall use all amounts received under subsection (b) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(A) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

''(B) Mitigation of damage to fish, wildlife, or natural resources.

''(C) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(D) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

''(E) Planning assistance and the administrative costs of complying with this section.

''(2) LIMITATION.—Not more than 3 percent of amounts received by a Gulf producing State or coastal political subdivision under subsection (b) may be used for the purposes described in paragraph (1)(E).

''(e) ADMINISTRATION.—Amounts made available under subsection (a)(2) shall—

''(1) be made available, without further appropriation, in accordance with this section;

''(2) remain available until expended; and

''(3) be in addition to any amounts appropriated under—

''(A) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

''(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.); or

''(C) any other provision of law.

''(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(1) IN GENERAL.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.

''(2) EXPENDITURES.—For the purpose of paragraph (1), for each of fiscal years 2016 through 2055, expenditures under subsection (a)(2) shall be net of receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.

''(3) PRO RATA REDUCTIONS.—If paragraph (1) limits the amount of qualified outer Continental Shelf revenue that would be paid under subparagraphs (A) and (B) of subsection (a)(2)—

''(A) the Secretary shall reduce the amount of qualified outer Continental Shelf revenue provided to each recipient on a pro rata basis; and

''(B) any remainder of the qualified outer Continental Shelf revenues shall revert to the general fund of the Treasury.''

Pub. L. 112–74, div. E, title I, Dec. 23, 2011, 125 Stat. 995, provided in part: ''That for fiscal year 2012 and each fiscal year thereafter, the term 'qualified Outer Continental Shelf revenues', as defined in section 102(9)(A) of the Gulf of Mexico Energy Security Act [of 2006], [title I of] division C of Public Law 109–432 [set out above], shall include only the portion of rental revenues that would have been collected by the Secretary at the rental rates in effect before August 5, 1993.''

Similar provisions were contained in the following appropriation act:

Pub. L. 112–74, div. E, title I, Dec. 23, 2011, 125 Stat. 994.

NAVAL PETROLEUM RESERVE

Section 13 of act Aug. 7, 1953, revoked Ex. Ord. No. 10426, Jan. 16, 1953, 18 F.R. 405, which had set aside certain submerged lands as a naval petroleum reserve and had transferred functions with respect thereto from the Secretary of the Interior to the Secretary of the Navy.

AUTHORIZATION OF APPROPRIATIONS

Section 16 of act Aug. 7, 1953, provided that: ''There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [enacting this subchapter].''

PROC. NO. 5928. TERRITORIAL SEA OF UNITED STATES

Proc. No. 5928, Dec. 27, 1988, 54 F.R. 777, provided:

International law recognizes that coastal nations may exercise sovereignty and jurisdiction over their territorial seas.

The territorial sea of the United States is a maritime zone extending beyond the land territory and internal waters of the United States over which the United States exercises sovereignty and jurisdiction, a sovereignty and jurisdiction that extend to the airspace over the territorial sea, as well as to its bed and subsoil.

Extension of the territorial sea by the United States to the limits permitted by international law will advance the national security and other significant interests of the United States.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution of the United States of America, and in accordance with international law, do hereby proclaim the extension of the territorial sea of the United States of America, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty.

The territorial sea of the United States henceforth extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

In accordance with international law, as reflected in the applicable provisions of the 1982 United Nations Convention on the Law of the Sea, within the territorial sea of the United States, the ships of all countries enjoy the right of innocent passage and the ships and aircraft of all countries enjoy the right of transit passage through international straits.

Nothing in this Proclamation:

(a) extends or otherwise alters existing Federal or State law or any jurisdiction, rights, legal interests, or obligations derived therefrom; or

(b) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

RONALD REAGAN.

PROC. NO. 7219. CONTIGUOUS ZONE OF THE UNITED STATES

Proc. No. 7219, Sept. 2, 1999, 64 F.R. 48701, 49844, provided:

International law recognizes that coastal nations may establish zones contiguous to their territorial seas, known as contiguous zones.

The contiguous zone of the United States is a zone contiguous to the territorial sea of the United States, in which the United States may exercise the control necessary to prevent infringement of its customs, fiscal, immigration, or sanitary laws and regulations within its territory or territorial sea, and to punish infringement of the above laws and regulations committed within its territory or territorial sea.

Extension of the contiguous zone of the United States to the limits permitted by international law will advance the law enforcement and public health interests of the United States. Moreover, this extension is an important step in preventing the removal of cultural heritage found within 24 nautical miles of the baseline.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the authority vested in me as President by the Constitution of the United States, and in accordance with international law, do hereby proclaim the extension of the contiguous zone of the United States of America, including the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession over which the United States exercises sovereignty, as follows:

The contiguous zone of the United States extends to 24 nautical miles from the baselines of the United States determined in accordance with international law, but in no case within the territorial sea of another nation.

In accordance with international law, reflected in the applicable provisions of the 1982 Convention on the Law of the Sea, within the contiguous zone of the United States the ships and aircraft of all countries enjoy the high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to those freedoms, such as those associated with the operation of ships, aircraft, and submarine cables and pipelines, and compatible with the other provisions of international law reflected in the 1982 Convention on the Law of the Sea.

Nothing in this proclamation:

(a) amends existing Federal or State law;

(b) amends or otherwise alters the rights and duties of the United States or other nations in the Exclusive

Economic Zone of the United States established by Proclamation 5030 of March 10, 1983 [16 U.S.C. 1453 note]; or

(c) impairs the determination, in accordance with international law, of any maritime boundary of the United States with a foreign jurisdiction.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of September, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

WILLIAM J. CLINTON.

### § 1332. Congressional declaration of policy

It is hereby declared to be the policy of the United States that—

(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this subchapter;

(2) this subchapter shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts;

(B) the distribution of a portion of the receipts from the leasing of mineral resources of the outer Continental Shelf adjacent to State lands, as provided under section 1337(g) of this title, will provide affected coastal States and localities with funds which may be used for the mitigation of adverse economic and environmental effects related to the development of such resources; and

(C) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf.[1]

(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.

(Aug. 7, 1953, ch. 345, § 3, 67 Stat. 462; Pub. L. 95–372, title II, § 202, Sept. 18, 1978, 92 Stat. 634; Pub. L. 99–272, title VIII, § 8002, Apr. 7, 1986, 100 Stat. 148.)

AMENDMENTS

1986—Par. (4)(B), (C). Pub. L. 99–272 added subpar. (B) and redesignated former subpar. (B) as (C).

1978—Pub. L. 95–372 redesignated subsecs. (a) and (b) as pars. (1) and (2) and added pars. (3) to (6).

### § 1333. Laws and regulations governing lands

#### (a) Constitution and United States laws; laws of adjacent States; publication of projected State lines; international boundary disputes; restriction on State taxation and jurisdiction

(1) The Constitution and laws and civil and political jurisdiction of the United States are extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however*, That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this subchapter.

(2)(A) To the extent that they are applicable and not inconsistent with this subchapter or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State, now in effect or hereafter adopted, amended, or repealed are declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

(B) Within one year after September 18, 1978, the President shall establish procedures for setting[1] any outstanding international bound-

[1] So in original. The period probably should be a semicolon.

[1] So in original. Probably should be "settling".

ary dispute respecting the outer Continental Shelf.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

**(b) Longshore and Harbor Workers' Compensation Act applicable; definitions**

With respect to disability or death of an employee resulting from any injury occurring as the result of operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf, compensation shall be payable under the provisions of the Longshore and Harbor Workers' Compensation Act [33 U.S.C. 901 et seq.]. For the purposes of the extension of the provisions of the Longshore and Harbor Workers' Compensation Act under this section—

(1) the term ''employee'' does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term ''employer'' means an employer any of whose employees are employed in such operations; and

(3) the term ''United States'' when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

**(c) National Labor Relations Act applicable**

For the purposes of the National Labor Relations Act, as amended [29 U.S.C. 151 et seq.], any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.

**(d) Coast Guard regulations; marking of artificial islands, installations, and other devices; failure of owner suitably to mark according to regulations**

(1) The Secretary of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices referred to in subsection (a) of this section or on the waters adjacent thereto, as he may deem necessary.

(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) of this section whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this subchapter, and the owner shall pay the cost of such marking.

**(e) Authority of Secretary of the Army to prevent obstruction to navigation**

The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is extended to the artificial islands, installations, and other devices referred to in subsection (a) of this section.

**(f) Provisions as nonexclusive**

The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands, installations, and other devices referred to in subsection (a) of this section or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

(Aug. 7, 1953, ch. 345, § 4, 67 Stat. 462; Pub. L. 93–627, § 19(f), Jan. 3, 1975, 88 Stat. 2146; Pub. L. 95–372, title II, § 203, Sept. 18, 1978, 92 Stat. 635; Pub. L. 98–426, § 27(d)(2), Sept. 28, 1984, 98 Stat. 1654.)

REFERENCES IN TEXT

The Longshore and Harbor Workers' Compensation Act, referred to in subsec. (b), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§ 901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

The National Labor Relations Act, as amended, referred to in subsec. (c), is act July 5, 1935, ch. 372, 49 Stat. 449, as amended, which is classified generally to subchapter II (§ 151 et seq.) of chapter 7 of Title 29, Labor. For complete classification of this Act to the Code, see section 167 of Title 29 and Tables.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–426 substituted ''Longshore and Harbor Workers' Compensation Act'' for ''Longshoremen's and Harbor Workers' Compensation Act''.

1978—Subsec. (a)(1). Pub. L. 95–372, § 203(a), substituted '', and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon for the purpose of exploring for, developing, or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources,'' for ''and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom,''.

Subsec. (a)(2). Pub. L. 95–372, § 203(b), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (b). Pub. L. 95–372, § 203(c), (h), redesignated subsec. (c) as (b) and substituted ''conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf,'' for ''described in subsection (b) of this section,''. Former subsec. (b), relating to the jurisdiction of United States district courts over cases and

controversies arising out of or in connection with operations conducted on the outer Continental Shelf, was struck out. See section 1349(b) of this title.

Subsec. (c). Pub. L. 95–372, § 203(d), (h), redesignated subsec. (d) as (c) and substituted ''artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device'' for ''artificial island or fixed structure referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure''. Former subsec. (c) redesignated (b).

Subsec. (d)(1). Pub. L. 95–372, § 203(e)(1), (f), (h), redesignated subsec. (e)(1) as (d)(1), substituted ''Secretary'' for ''head'' and ''artificial islands, installations, and other devices'' for ''islands and structures''. Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 95–372, § 203(g), (h), redesignated subsec. (e)(2) as (d)(2) and substituted ''Secretary'' for ''head'' and ''artificial island, installation, or other device referred to in subsection (a) of this section whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this subchapter, and the owner shall pay the cost of such marking'' for ''such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof'', and struck out provisions which had made failure or refusal to obey any lawful rules and regulations a misdemeanor punishable by a fine of not more than $100, with each day during which such a violation would continue to be deemed a new offense. Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 95–372, § 203(e)(2), (h), redesignated subsec. (f) as (e) and substituted ''the artificial islands, installations, and other devices referred to in subsection (a) of this section'' for ''artificial islands and fixed structures located on the outer Continental Shelf''. Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 95–372, § 203(e)(3), (h), redesignated subsec. (g) as (f) and substituted ''the artificial islands, installations, and other devices'' for ''the artificial islands and fixed structures''. Former subsec. (f) redesignated (e).

1975—Subsec. (a)(2). Pub. L. 93–627 substituted ''now in effect or hereafter adopted, amended, or repealed'' for ''as of the effective date of this Act'' in first sentence.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 1334. Administration of leasing

### (a) Rules and regulations; amendment; cooperation with State agencies; subject matter and scope of regulations

The Secretary shall administer the provisions of this subchapter relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this subchapter. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

(2) with respect to cancellation of any lease or permit—

(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

(ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time; and

(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit force;

(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit

term continuously for a period of five years, or for a lesser period upon request of the lessee;

(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before September 18, 1978, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

(3) for the assignment or relinquishment of a lease;

(4) for unitization, pooling, and drilling agreements;

(5) for the subsurface storage of oil and gas from any source other than by the Federal Government;

(6) for drilling or easements necessary for exploration, development, and production;

(7) for the prompt and efficient exploration and development of a lease area; and

(8) for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this subchapter significantly affect the air quality of any State.

**(b) Compliance with regulations as condition for issuance, continuation, assignment, or other transfer of leases**

The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this subchapter shall be conditioned upon compliance with regulations issued under this subchapter.

**(c) Cancellation of nonproducing lease**

Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this subchapter, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

**(d) Cancellation of producing lease**

Whenever the owner of any producing lease fails to comply with any of the provisions of this subchapter, of the lease, or of the regulations issued under this subchapter, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this subchapter.

**(e) Pipeline rights-of-way; forfeiture of grant**

Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this subchapter, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 1347(b) of this title) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be grounds for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this subchapter.

**(f) Competitive principles governing pipeline operation**

(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is

within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after September 18, 1978. This subparapraph[1] shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

**(g) Rates of production**

(1) The leasee[2] shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

**(h) Federal action affecting outer Continental Shelf; notification; recommended changes**

The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

**(i) Flaring of natural gas**

After September 18, 1978, no holder of any oil and gas lease issued or maintained pursuant to this subchapter shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.

**(j) Cooperative development of common hydrocarbon-bearing areas**

**(1) Findings**

(A)[3] The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including—

(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

**(2) Prevention of harmful effects**

The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.

(Aug. 7, 1953, ch. 345, § 5, 67 Stat. 464; Pub. L. 95–372, title II, § 204, Sept. 18, 1978, 92 Stat. 636; Pub. L. 101–380, title VI, § 6004(a), Aug. 18, 1990, 104 Stat. 558; Pub. L. 109–58, title III, § 321(a), Aug. 8, 2005, 119 Stat. 694.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (a)(8), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended, which is classified generally to chapter 85 (§ 7401 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 7401 of Title 42 and Tables.

AMENDMENTS

2005—Subsec. (a)(5). Pub. L. 109–58 inserted ''from any source'' after ''oil and gas''.

1990—Subsec. (j). Pub. L. 101–380 added subsec. (j).

1978—Subsec. (a). Pub. L. 95–372 expanded provisions formerly contained in subsec. (a)(1) so as to include the enforcement of safety and environmental laws and regulations, consultation with the Attorney General and the Federal Trade Commission, and regulations for the suspension or temporary prohibition of any operation or activity including production, the cancellation of leases or permits, the prompt and efficient exploration and development of a lease area, and compliance with the national ambient air quality standards to the extent that activities authorized significantly affect the air quality of any State.

Subsec. (b). Pub. L. 95–372 redesignated as subsec. (b) provisions formerly contained in subsec. (a)(2) conditioning the issuance and continuation of leases or of assignments or other transfers of leases upon compliance with regulations, and struck out provisions that had

[1] So in original. Probably should be ''subparagraph''.

[2] So in original. Probably should be ''lessee''.

[3] So in original. No subpar. (B) has been enacted.

set a penalty of a fine of not more than $2,000 or imprisonment for not more than six months or both for the knowing and willful violation of rules or regulations promulgated by the Secretary. See section 1350 of this title.

Subsec. (c). Pub. L. 95–372 redesignated as subsec. (c) provisions formerly contained in subsec. (b)(1) covering the cancellation of nonproducing leases for failure of the owner to comply with any of the provisions of this subchapter, or of the lease, or of the regulations issued under this subchapter.

Subsec. (d). Pub. L. 95–372 redesignated as subsec. (d) provisions formerly contained in subsec. (b)(2) covering the cancellation and forfeiture of producing leases for failure of the owner to comply with any of the provisions of this subchapter, the lease, or regulations promulgated under this subchapter.

Subsec. (e). Pub. L. 95–372 redesignated as subsec. (e) provisions formerly contained in subsec. (c) relating to pipeline rights-of-way and inserted provisions relating to regulations prescribed by the Secretary of Transportation and assurances of maximum environmental protection through the use of the best available and safest technologies including the safest practices for pipeline burial, and substituted references to the Federal Energy Regulatory Commission and the Secretary of Energy for existing references to the Federal Power Commission and the Interstate Commerce Commission.

Subsecs. (f) to (i). Pub. L. 95–372 added subsecs. (f) to (i).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to subsec. (g)(2) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

WEST DELTA FIELD

Section 6004(b) of Pub. L. 101–380 provided that: ''Section 5(j) of the Outer Continental Shelf Lands Act [43 U.S.C. 1334(j)], as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.''

KEY LARGO CORAL REEF PRESERVE

Secretary of the Interior to prescribe rules and regulations governing the protection and conservation of the coral and other mineral resources in the area designated Key Largo Coral Reef Preserve, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out as a note under section 461 of Title 16, Conservation.

## § 1335. Validation and maintenance of prior leases

### (a) Requirements for validation

The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from August 7, 1953, or within such further period or periods as provided in section 1336 of this title or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had the authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

(4) except as otherwise provided in section 1336 of this title hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and August 7, 1953, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after August 7, 1953, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 1338 of this title;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on August 7, 1953;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and August 7,

1953 and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on August 7, 1953;

(10) such lease will terminate within a period of not more than five years from August 7, 1953 in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

**(b) Conduct of operations under lease; sulphur rights**

Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8)–(10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from August 7, 1953 equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 1334 of this title prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided, however*, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of this subsection unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further*, That if sulphur is being produced in paying quantities on such date, then such rights shall continue to be maintained in accordance with such lease and the provisions of this subchapter: *Provided further*, That, if the primary term of a lease being maintained under this subsection has expired prior to August 7, 1953 and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from August 7, 1953 and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

**(c) Nonwaiver of United States claims**

The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to August 7, 1953.

**(d) Judicial review of determination**

Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

**(e) Lands beneath navigable waters**

In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act [43 U.S.C. 1301 et seq.], as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

(Aug. 7, 1953, ch. 345, § 6, 67 Stat. 465.)

REFERENCES IN TEXT

The Submerged Lands Act, referred to in subsec. (e), is act May 22, 1953, ch. 65, 67 Stat. 29, which is classified generally to subchapters I (§ 1301 et seq.) and II (§ 1311 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

## § 1336. Controversies over jurisdiction; agreements; payments; final settlement or adjudication; approval of notice concerning oil and gas operations in Gulf of Mexico

In the event of a controversy between the United States and a State as to whether or not

lands are subject to the provisions of this subchapter, the Secretary is authorized, notwithstanding the provisions of section 1335(a) and (b) of this title and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this subchapter. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 1335(a)(4) of this title. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this subchapter, the lessee, if he has not already done so, shall comply with the requirements of section 1335(a) of this title, and thereupon the provisions of section 1335(b) of this title shall govern such lease. The notice concerning ''Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico'' issued by the Secretary on December 11, 1950 (15 F.R. 8835), as amended by the notice dated January 26, 1951 (16 F.R. 953), and as supplemented by the notices dated February 2, 1951 (16 F.R. 1203), March 5, 1951 (16 F.R. 2195), April 23, 1951 (16 F.R. 3623), June 25, 1951 (16 F.R. 6404), August 22, 1951 (16 F.R. 8720), October 24, 1951 (16 F.R. 10998), December 21, 1951 (17 F.R. 43), March 25, 1952 (17 F.R. 2821), June 26, 1952 (17 F.R. 5833), and December 24, 1952 (18 F.R. 48), respectively, is approved and confirmed.

(Aug. 7, 1953, ch. 345, § 7, 67 Stat. 467.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

### § 1337. Leases, easements, and rights-of-way on the outer Continental Shelf

#### (a) Oil and gas leases; award to highest responsible qualified bidder; method of bidding; royalty relief; Congressional consideration of bidding system; notice

(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 1335 of this title. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

(D) cash bonus bid with a fixed share of the net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(E) fixed cash bonus with the net profit share reserved as the bid variable;

(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold;

(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or

(I) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purposes and policies of this subchapter, except that no such bidding system or modification shall have more than one bid variable.

(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection,

according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be made in total no later than five years after the date of the lease sale.

(3)(A) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude and in the Planning Areas offshore Alaska, the Secretary may, in order to—

(i) promote development or increased production on producing or non-producing leases; or

(ii) encourage production of marginal resources on producing or non-producing leases;

through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

(C)(i) Notwithstanding the provisions of this subchapter other than this subparagraph, with respect to any lease or unit in existence on November 28, 1995, meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease. The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400–800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 702 of title 5, only for actions filed within 30 days of the Secretary's determination or redetermination.

(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

(iv) For purposes of this subparagraph, the term ''new production'' is—

(I) any production from a lease from which no royalties are due on production, other than test production, prior to November 28, 1995; or

(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development Operations Coordination Document, approved by the Secretary after November 28, 1995.

(v) During the production of volumes determined pursuant to clauses[1] (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds $28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production

[1] So in original. Probably should be ''clause''.

subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds $3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses[1] (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds $3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year.

(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(H) Debate on the resolution is limited to not more than two hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

(5)(A) During the five-year period commencing on September 18, 1978, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this subchapter, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this subchapter.

(B) The bidding systems authorized by paragraph (1) of this subsection, other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on September 18, 1978, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this subchapter.

(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of wells sufficient to determine the size and a real extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

**(b) Terms and provisions of oil and gas leases**

An oil and gas lease issued pursuant to this section shall—

(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

(2) be for an initial period of—

(A) five years; or

(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this subchapter;

(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 1334 of this title;

(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973[2] [15 U.S.C. 751 et seq.].

**(c) Antitrust review of lease sales**

(1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct

[2] See References in Text note below.

such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

(4)(A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

**(d) Due diligence**

No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

**(e) Secretary's approval for sale, exchange, assignment, or other transfer of leases**

No lease issued under this subchapter may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

**(f) Antitrust immunity or defenses**

Nothing in this subchapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

**(g) Leasing of lands within three miles of seaward boundaries of coastal States; deposit of revenues; distribution of revenues**

(1) At the time of soliciting nominations for the leasing of lands containing tracts wholly or partially within three nautical miles of the seaward boundary of any coastal State, and subsequently as new information is obtained or developed by the Secretary, the Secretary shall, in addition to the information required by section 1352 of this title, provide the Governor of such State—

(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

(B) at the request of the Governor of such State, all information from all sources concerning the geographical, geological, and ecological characteristics of such tracts;

(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

(D) at the request of the Governor of such State, an identification of any field, geological structure, or trap located wholly or partially within three nautical miles of the seaward boundary of such coastal State, including all information relating to the entire field, geological structure, or trap.

The provisions of the first sentence of subsection (c) and the provisions of subsections (e)–(h) of section 1352 of this title shall be applicable to the release by the Secretary of any information to any coastal State under this paragraph. In addition, the provisions of subsections (c) and (e)–(h) of section 1352 of this title shall apply in their entirety to the release by the Secretary to any coastal State of any information relating to Federal lands beyond three nautical miles of the seaward boundary of such coastal State.

(2) Notwithstanding any other provision of this subchapter, the Secretary shall deposit into a separate account in the Treasury of the United States all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly (or, in the case of Alaska, partially until seven years from the date of settlement of any boundary dispute that is the subject of an agreement under section 1336 of this title entered into prior to January 1, 1986 or until April 15, 1993 with respect to any other tract) within three nautical miles of the seaward boundary of any coastal State, or, (except as provided above for Alaska) in the case where a Federal tract lies partially within three nautical miles of the seaward boundary, a percentage of bonuses, rents, royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of such tract equal to the percentage of surface acreage of the tract that lies within such three nautical miles. Except as provided in paragraph (5) of this subsection, not later than the last business day of the month following the month in which those revenues are deposited in the Treasury, the Secretary shall transmit to such coastal State 27 percent of those revenues, together with all accrued interest thereon. The remaining balance of such revenues shall be transmitted simultaneously to the miscellaneous receipts account of the Treasury of the United States.

(3) Whenever the Secretary or the Governor of a coastal State determines that a common potentially hydrocarbon-bearing area may underlie the Federal and State boundary, the Secretary or the Governor shall notify the other party in writing of his determination and the Secretary shall provide to the Governor notice of the current and projected status of the tract or tracts containing the common potentially hydrocarbon-bearing area. If the Secretary has leased or intends to lease such tract or tracts, the Secretary and the Governor of the coastal State may enter into an agreement to divide the revenues from production of any common potentially hydrocarbon-bearing area, by unitization or other royalty sharing agreement, pursuant to existing law. If the Secretary and the Governor do not enter into an agreement, the Secretary may nevertheless proceed with the leasing of the tract or tracts. Any revenues received by the United States under such an agreement shall be subject to the requirements of paragraph (2).

(4) The deposits in the Treasury account described in this section shall be invested by the Secretary of the Treasury in securities backed by the full faith and credit of the United States having maturities suitable to the needs of the account and yielding the highest reasonably available interest rates as determined by the Secretary of the Treasury.

(5)(A) When there is a boundary dispute between the United States and a State which is subject to an agreement under section 1336 of this title, the Secretary shall credit to the account established pursuant to such agreement all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978 of any Federal tract which lies wholly or partially within three nautical miles of the seaward boundary asserted by the State, if that money has not otherwise been deposited in such account. Proceeds of an escrow account established pursuant to an agreement under section 1336 of this title shall be distributed as follows:

(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1) of this section), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

(I) within thirty days of December 1, 1987, or

(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.

(ii) Upon the settlement of a boundary dispute which is subject to a section 1336 of this title agreement between the United States and a State, the Secretary shall pay to such State any additional moneys due such State from amounts deposited in or credited to the escrow account. If there is insufficient money deposited in the escrow account, the Secretary shall transmit, from any revenues derived from any lease of Federal lands under this subchapter, the remaining balance due such State in accordance with the formula set forth in section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985.

(B) This paragraph applies to all Federal oil and gas lease sales, under this subchapter, including joint lease sales, occurring after September 18, 1978.

(6) This section shall be deemed to take effect on October 1, 1985, for purposes of determining the amounts to be deposited in the separate account and the States' shares described in paragraph (2).

(7) When the Secretary leases any tract which lies wholly or partially within three miles of the seaward boundary of two or more States, the revenues from such tract shall be distributed as otherwise provided by this section, except that the State's share of such revenues that would otherwise result under this section shall be divided equally among such States.

**(h) State claims to jurisdiction over submerged lands**

Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.

**(i) Sulphur leases; award to highest bidder; method of bidding**

In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of section 1335(a) of this title, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

**(j) Terms and provisions of sulphur leases**

A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

**(k) Other mineral leases; award to highest bidder; terms and conditions; agreements for use of resources for shore protection, beach or coastal wetlands restoration, or other projects**

(1) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

(2)(A) Notwithstanding paragraph (1), the Secretary may negotiate with any person an agreement for the use of Outer Continental Shelf sand, gravel and shell resources—

(i) for use in a program of, or project for, shore protection, beach restoration, or coastal wetlands restoration undertaken by a Federal, State, or local government agency; or

(ii) for use in a construction project, other than a project described in clause (i), that is funded in whole or in part by or authorized by the Federal Government.

(B) In carrying out a negotiation under this paragraph, the Secretary may assess a fee based on an assessment of the value of the resources and the public interest served by promoting development of the resources. No fee shall be assessed directly or indirectly under this subparagraph against a Federal, State, or local government agency.

(C) The Secretary may, through this paragraph and in consultation with the Secretary of Commerce, seek to facilitate projects in the coastal zone, as such term is defined in section 1453 of title 16, that promote the policy set forth in section 1452 of title 16.

(D) Any Federal agency which proposes to make use of sand, gravel and shell resources subject to the provisions of this subchapter shall enter into a Memorandum of Agreement with the Secretary concerning the potential use of those resources. The Secretary shall notify the Committee on Merchant Marine and Fisheries and the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on any proposed project for the use of those resources prior to the use of those resources.

**(*l*) Publication of notices of sale and terms of bidding**

Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

**(m) Disposition of revenues**

All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 1338 of this title.

**(n) Issuance of lease as nonprejudicial to ultimate settlement or adjudication of controversies**

The issuance of any lease by the Secretary pursuant to this subchapter, or the making of any interim arrangements by the Secretary pursuant to section 1336 of this title shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

**(*o*) Cancellation of leases for fraud**

The Secretary may cancel any lease obtained by fraud or misrepresentation.

**(p) Leases, easements, or rights-of-way for energy and related purposes**

**(1) In general**

The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this subchapter, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

(A) support exploration, development, production, or storage of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

(B) support transportation of oil or natural gas, excluding shipping activities;

(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this subchapter, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

**(2) Payments and revenues**

(A) The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

(B) The Secretary shall provide for the payment of 27 percent of the revenues received by the Federal Government as a result of payments under this section from projects that are located wholly or partially within the area extending three nautical miles seaward of State submerged lands. Payments shall be made based on a formula established by the Secretary by rulemaking no later than 180 days after August 8, 2005, that provides for equitable distribution, based on proximity to the project, among coastal states that have a coastline that is located within 15 miles of the geographic center of the project.

**(3) Competitive or noncompetitive basis**

Except with respect to projects that meet the criteria established under section 388(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis un-

less the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

**(4) Requirements**

The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

(A) safety;

(B) protection of the environment;

(C) prevention of waste;

(D) conservation of the natural resources of the outer Continental Shelf;

(E) coordination with relevant Federal agencies;

(F) protection of national security interests of the United States;

(G) protection of correlative rights in the outer Continental Shelf;

(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

(J) consideration of—

(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

**(5) Lease duration, suspension, and cancellation**

The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

**(6) Security**

The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

(C) provide for the restoration of the lease, easement, or right-of-way.

**(7) Coordination and consultation with affected State and local governments**

The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

**(8) Regulations**

Not later than 270 days after August 8, 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected State, shall issue any necessary regulations to carry out this subsection.

**(9) Effect of subsection**

Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

**(10) Applicability**

This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.

(Aug. 7, 1953, ch. 345, § 8, 67 Stat. 468; Pub. L. 95–372, title II, § 205(a), (b), Sept. 18, 1978, 92 Stat. 640, 644; Pub. L. 99–272, title VIII, § 8003, Apr. 7, 1986, 100 Stat. 148; Pub. L. 100–202, § 101(g) [title I, § 100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–225; Pub. L. 103–426, § 1(a), Oct. 31, 1994, 108 Stat. 4371; Pub. L. 104–58, title III, §§ 302, 303, Nov. 28, 1995, 109 Stat. 563, 565; Pub. L. 105–362, title IX, § 901(k), Nov. 10, 1998, 112 Stat. 3290; Pub. L. 106–53, title II, § 215(b)(1), Aug. 17, 1999, 113 Stat. 292; Pub. L. 109–58, title III, §§ 346, 388(a), (c), Aug. 8, 2005, 119 Stat. 704, 744, 747.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (b)(7), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

Section 8004(b)(1)(B) of the Outer Continental Shelf Lands Act Amendments of 1985, referred to in subsec. (g)(5)(A), is section 8004(b)(1)(B) of Pub. L. 99–272, which is set out as a note below.

The Deepwater Port Act of 1974, referred to in subsec. (p)(1), is Pub. L. 93–627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified principally to chapter 29 (§ 1501 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 33 and Tables.

The Ocean Thermal Energy Conversion Act of 1980, referred to in subsec. (p)(1), is Pub. L. 96–320, Aug. 3, 1980, 94 Stat. 974, as amended, which is classified principally to chapter 99 (§ 9101 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 9101 of Title 42 and Tables.

Section 388(d) of the Energy Policy Act of 2005, referred to in subsec. (p)(3), is section 388(d) of Pub. L. 109–58, which is set out as a note under this section.

CODIFICATION

In subsec. (a)(3)(C)(ii), "section 702 of title 5" substituted for "section 10(a) of the Administrative Procedures Act (5 U.S.C. 702)" on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

August 8, 2005, referred to in subsec. (p)(2)(B), was in the original "the date of enactment of this section", which was translated as meaning the date of enactment

of Pub. L. 109–58, which enacted subsec. (p) of this section, to reflect the probable intent of Congress.

AMENDMENTS

2005—Pub. L. 109–58, § 388(c), substituted ''Leases, easements, and rights-of-way on the outer Continental Shelf'' for ''Grant of leases by Secretary'' in section catchline.

Subsec. (a)(3)(B). Pub. L. 109–58, § 346, inserted ''and in the Planning Areas offshore Alaska'' after ''West longitude'' in introductory provisions.

Subsec. (p). Pub. L. 109–58, § 388(a), added subsec. (p).

1999—Subsec. (k)(2)(B). Pub. L. 106–53 substituted ''a Federal, State, or local government agency'' for ''an agency of the Federal Government''.

1998—Subsec. (a)(9). Pub. L. 105–362 struck out par. (9) which related to report to Congress by Secretary of Energy on bidding options for oil and gas leases on outer Continental Shelf land.

1995—Subsec. (a)(1)(H), (I). Pub. L. 104–58, § 303, added subpar. (H) and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 104–58, § 302, designated existing provisions as subpar. (A) and added subpars. (B) and (C).

1994—Subsec. (k). Pub. L. 103–426 designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (g)(5)(A). Pub. L. 100–202 substituted ''an escrow account established pursuant to an agreement under section 1336 of this title'' for ''such account'' in second sentence, added cl. (i), designated existing indented par. as cl. (ii), substituted ''a boundary'' for ''any boundary'', ''any additional moneys'' for ''all moneys'', and inserted ''or credited to'' before ''the escrow account''.

1986—Subsec. (g)(1). Pub. L. 99–272 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of such State—

''(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

''(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

''(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

''(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of such coastal State.''

Subsec. (g)(2). Pub. L. 99–272 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary, in consultation with the Governor of the coastal State, shall then, determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.''

Subsec. (g)(3). Pub. L. 99–272 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this subchapter, with applicable regulations, and, to the maximum extent practicable, with the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.''

Subsec. (g)(4). Pub. L. 99–272 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Notwithstanding any other provision of this subchapter, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.''

Subsec. (g)(5) to (7). Pub. L. 99–272 added pars. (5) to (7).

1978—Subsec. (a). Pub. L. 95–372, § 205(a), designated existing provisions as par. (1)(A) and (B), and in par. (1)(A) as so redesignated, struck out provisions which restricted authority of Secretary to grant oil and gas leases to situations involving the urgent need for further exploration and development of oil and gas deposits of the submerged lands of the outer Continental Shelf and inserted provisions permitting the promulgation of regulations for the deposit of cash bids in interest-bearing accounts until the Secretary announces his decision on whether to accept the bids with the earned interest paid either to the Treasury or to unsuccessful bidders, in par. (1)(B) as so redesignated, substituted provisions relating to variable royalty bids based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount covering exploration or a fixed cash bonus as determined by the Secretary or both for provisions relating to straight royalty bids at not less than 12½ per centum with a cash bonus fixed by the Secretary, and added pars. (1)(C) to (H) and pars. (2) to (9).

Subsec. (b). Pub. L. 95–372, § 205(a), redesignated cls. (1) to (4) as pars. (1), (2), (3), and (6) respectively, added pars. (4), (5), and (7), and in par. (1) as so redesignated, inserted provisions authorizing the Secretary to lease tracts larger than 5760 acres if a larger area is necessary to comprise a reasonable economic production unit and in par. (2) as so redesignated, inserted provision to allow up to a 10 year initial period if the longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions, and in par. (3) as so redesignated, substituted ''payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section'' for ''payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease''.

Subsecs. (c) to (h). Pub. L. 95–372, § 205(b), added subsecs. (c) to (h). Former subsecs. (c) to (h) redesignated (i) to (n).

Subsec. (i). Pub. L. 95–372, § 205(b), redesignated former subsec. (c) as (i). Former subsec. (i) redesignated (*o*).

Subsec. (j). Pub. L. 95–372, § 205(b), redesignated former subsec. (d) as (j). Former subsec. (j), which provided that any person complaining of the cancellation of a lease by the Secretary could have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review, was struck out. See section 1349 of this title.

Subsecs. (k) to (*o*). Pub. L. 95–372, § 205(b), redesignated former subsecs. (e) to (i) as (k) to (*o*), respectively.

REGULATIONS

Section 305 of title III of Pub. L. 104–58 provided that: ''The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title [amending this section and enacting provisions set out as notes under this section] within 180 days after the enactment of this Act [Nov. 28, 1995].''

SAVINGS PROVISION

Pub. L. 109–58, title III, § 388(d), Aug. 8, 2005, 119 Stat. 747, provided that: ''Nothing in the amendment made by subsection (a) [amending this section] requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act [Aug. 8, 2005]—

''(1) an offshore test facility has been constructed; or

''(2) a request for a proposal has been issued by a public authority.''

Section 306 of title III of Pub. L. 104–58 provided that: ''Nothing in this title [amending this section and enacting provisions set out as notes under this section] shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.''

ABOLITION OF HOUSE COMMITTEE ON MERCHANT MARINE AND FISHERIES

Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

TRANSFER OF FUNCTIONS

Functions vested in, or delegated to, Secretary of Energy and Department of Energy under or with respect to subsec. (a)(4) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

COORDINATED OCS MAPPING INITIATIVE

Pub. L. 109–58, title III, § 388(b), Aug. 8, 2005, 119 Stat. 746, provided that:

''(1) IN GENERAL.—The Secretary of the Interior, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

''(2) USE OF DATA.—The mapping initiative shall use, and develop procedures for accessing, data collected before the date on which the mapping initiative is established, to the maximum extent practicable.

''(3) INCLUSIONS.—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

''(A) Federally-permitted activities;

''(B) obstructions to navigation;

''(C) submerged cultural resources;

''(D) undersea cables;

''(E) offshore aquaculture projects; and

''(F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.''

STATE CLAIMS TO JURISDICTION OVER SUBMERGED LANDS

Pub. L. 109–58, title III, § 388(e), Aug. 8, 2005, 119 Stat. 747, provided that: ''Nothing in this section [amending this section and enacting provisions set out as notes under this section] shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.''

REIMBURSEMENT OF LOCAL INTERESTS

Pub. L. 106–53, title II, § 215(b)(2), Aug. 17, 1999, 113 Stat. 293, provided that: ''Any amounts paid by non-Federal interests for beach erosion control, hurricane protection, shore protection, or storm damage reduction projects as a result of an assessment under section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(k)) shall be fully reimbursed.''

FEES FOR ROYALTY RATE RELIEF APPLICATIONS

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–166; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3)''.

LEASE SALES

Section 304 of title III of Pub. L. 104–58 provided that: ''For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title [Nov. 28, 1995], shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act, as amended by this title [43 U.S.C. 1337(a)(1)(H)], except that the suspension of royalties shall be set at a volume of not less than the following:

''(1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;

''(2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and

''(3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.''

DISTRIBUTION OF SECTION 1337(g) ACCOUNT

Section 8004 of title VIII of Pub. L. 99–272 provided that:

''(a) Prior to April 15, 1986, the Secretary shall distribute to the designated coastal States the sum of—

''(1) the amounts due and payable to each such State under paragraph (2) of section 8(g) of the Outer Continental Shelf Lands Act, as amended by this title [43 U.S.C. 1337(g)(2)], for the period between October 1, 1985, and the date of such distribution, and

''(2) the amounts due each such State under subsection (b)(1)(A) of this section for the period prior to October 1, 1985.

''(b)(1) As a fair and equitable disposition of all revenues (including interest thereon) derived from any

lease of Federal lands wholly or partially within 3 miles of the seaward boundary of a coastal State prior to October 1, 1985, the Secretary shall distribute:

''(A) from the funds which were deposited in the separate account in the Treasury of the United States under section 8(g)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(4)) which was in effect prior to the date of enactment of section 8003 of this title [Apr. 7, 1986] the following sums:

| | ($ million) |
|---|---|
| Louisiana | 572 |
| Texas | 382 |
| California | 338 |
| Alabama | 66 |
| Alaska | 51 |
| Mississippi | 14 |
| Florida | 0.03 |

as well as 27 percent of the royalties, derived from any lease of Federal lands, which have been deposited through September 30, 1985, in the separate account described in this paragraph and interest thereon accrued through September 30, 1985, and shall transmit any remaining amounts to the miscellaneous receipts account of the Treasury of the United States; and

''(B) from revenues derived from any lease of Federal lands under the Outer Continental Shelf Lands Act, as amended [43 U.S.C. 1331 et seq.], prior to April 15 of each of the fifteen fiscal years following the fiscal year in which this title is enacted, 3 percent of the following sums in each of the five fiscal years following the date of enactment of this Act [Apr. 7, 1986], 7 percent of such sums in each of the next five fiscal years, and 10 percent of such sums in each of the following five fiscal years:

| | ($ million) |
|---|---|
| Louisiana | 84 |
| Texas | 134 |
| California | 289 |
| Alabama | 7 |
| Alaska | 134 |
| Mississippi | 2. |

''(2) The acceptance of any payment by a State under this section shall satisfy and release any and all claims of such State against the United States arising under, or related to, section 8(g) of the Outer Continental Shelf Lands Act [43 U.S.C. 1337(g)], as it was in effect prior to the date of enactment of this Act [Apr. 7, 1986] and shall vest in such State the right to receive payments as set forth in this section.

''(c) Notwithstanding any other provision of this Act, the amounts due and payable to the State of Louisiana prior to October 1, 1986, under subtitle A of title VIII (Outer Continental Shelf and Related Programs) of this Act [title VIII does not contain a subtitle A, see Short Title of 1986 Amendment note set out under section 1301 of this title] shall remain in their separate accounts in the Treasury of the United States and continue to accrue interest until October 1, 1986, except that the $572,000,000 set forth in subsection 8004(b)(1)(A) of this section shall only accrue interest from April 15, 1986 to October 1, 1986, at which time the Secretary shall immediately distribute such sums with accrued interest to the State of Louisiana.''

## § 1338. Disposition of revenues

All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

(Aug. 7, 1953, ch. 345, § 9, 67 Stat. 469.)

## § 1338a. Moneys received as a result of forfeiture by Outer Continental Shelf permittee, lessee, or right-of-way holder; return of excess amounts

Notwithstanding section 3302 of title 31, any moneys on and after November 5, 1990, received as a result of the forfeiture of a bond or other security by an Outer Continental Shelf permittee, lessee, or right-of-way holder which does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary shall be credited to the royalty and offshore minerals management account of the Minerals Management Service to cover the cost to the United States of any improvement, protection, or rehabilitation work rendered necessary by the action or inaction that led to the forfeiture, to remain available until expended: *Provided further*, That any portion of the moneys so credited shall be returned to the permittee, lessee, or right-of-way holder to the extent that the money is in excess of the amount expended in performing the work necessitated by the action or inaction which led to their receipt or, if the bond or security was forfeited for failure to pay the civil penalty, in excess of the civil penalty imposed.

(Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1926; Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1386; Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2508.)

### Codification

Section enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1991, and not as part of the Outer Continental Shelf Lands Act which comprises this subchapter.

### Amendments

1994—Pub. L. 103–332 struck out ''or payment of civil penalty'' after ''result of the forfeiture of a bond or other security'', substituted ''royalty and offshore minerals'' for ''leasing and royalty'', and struck out ''or imposition of the civil penalty'' after ''rendered necessary by the action or inaction that led to the forfeiture''.

1992—Pub. L. 102–381 substituted ''shall be credited to the leasing and royalty management account of the Minerals Management Service'' for ''shall be credited to this account''.

### Change of Name

Title I of Pub. L. 103–332, 108 Stat. 2508, provided in part: ''That where the account title 'Leasing and Royalty Management' appears in any public law, the words 'Leasing and Royalty Management' beginning in fiscal year 1995 and thereafter shall be construed to mean 'Royalty and Offshore Minerals Management'.''

### Effective Date of 1994 Amendment

Title I of Pub. L. 103–332, 108 Stat. 2508, provided that the amendment made by Pub. L. 103–332 substituting ''royalty and offshore minerals'' for ''leasing and royalty'' is effective beginning in fiscal year 1995 and thereafter.

## § 1339. Repealed. Pub. L. 104–185, § 8(b), Aug. 13, 1996, 110 Stat. 1717

Section, act Aug. 7, 1953, ch. 345, § 10, 67 Stat. 469, related to requirements for refund of excess payments.

### Effective Date of Repeal

Section 8(b) of Pub. L. 104–185 provided in part that the repeal of this section is effective Aug. 13, 1996.

APPLICABILITY OF REPEAL

Repeal of section not applicable to any privately owned minerals or with respect to Indian lands, see sections 9 and 10 of Pub. L. 104–185, set out as an Applicability of 1996 Amendment note under section 1701 of Title 30, Mineral Lands and Mining.

## § 1340. Geological and geophysical explorations

### (a) Approved exploration plans

(1) Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area.

(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this subchapter.

### (b) Oil and gas exploration

Except as provided in subsection (f) of this section, beginning ninety days after September 18, 1978, no exploration pursuant to any oil and gas lease issued or maintained under this subchapter may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

### (c) Plan approval; State concurrence; plan provisions

(1) Except as otherwise provided in this subchapter, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this subchapter, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this subchapter, regulations prescribed under this subchapter, including regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 1334(a)(2)(A)(i) of this title, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 1334(a)(2)(B) of this title, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 1334(a)(2)(C)(i) or (ii) of this title.

(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 1455 of title 16, unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 1456(c)(3)(B)(i) or (ii) of title 16, or the Secretary of Commerce makes the finding authorized by section 1456(c)(3)(B)(iii) of title 16.

(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

(A) a schedule of anticipated exploration activities to be understaken;[1]

(B) a description of equipment to be used for such activities;

(C) the general location of each well to be drilled; and

(D) such other information deemed pertinent by the Secretary.

(4) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

### (d) Drilling permit

The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

### (e) Plan revisions; conduct of exploration activities

(1) If a significant revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

### (f) Drilling permits issued and exploration plans approved within 90-day period after September 18, 1978

(1) Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after September 18, 1978, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 1334(a)(1)(B) of this title, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.

(2) The Secretary may require the holder of a lease described in paragraph (1) of this subsection to supply a general statement in accordance with subsection (c)(4) of this section, or to submit other information.

(3) Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.

### (g) Determinations requisite to issuance of permits

Any permit for geological explorations authorized by this section shall be issued only if the

[1] So in original. Probably should be ''undertaken;''.

Secretary determines, in accordance with regulations issued by the Secretary, that—

(1) the applicant for such permit is qualified;

(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this subchapter; and

(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

**(h) Lands beneath navigable waters adjacent to Phillip Burton Wilderness**

The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Phillip Burton Wilderness as depicted on a map entitled ''Wilderness Plan, Point Reyes National Seashore'', numbered 612–90,000–B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters (as such term is defined in section 1301 of this title) of such State which are adjacent to such Wilderness.

(Aug. 7, 1953, ch. 345, § 11, 67 Stat. 469; Pub. L. 95–372, title II, § 206, Sept. 18, 1978, 92 Stat. 647; Pub. L. 99–68, § 1(c), July 19, 1985, 99 Stat. 166.)

AMENDMENTS

1978—Pub. L. 95–372 designated existing provisions as subsec. (a)(1) and added subsecs. (a)(2) to (h).

CHANGE OF NAME

''Phillip Burton Wilderness'' was substituted for ''Point Reyes Wilderness'' in subsec. (h), pursuant to section 1(c) of Pub. L. 99–68.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

## § 1341. Reservation of lands and rights

**(a) Withdrawal of unleased lands by President**

The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

**(b) First refusal of mineral purchases**

In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

**(c) National security clause**

All leases issued under this subchapter, and leases, the maintenance and operation of which are authorized under this subchapter, shall contain or be construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

**(d) National defense areas; suspension of operations; extension of leases**

The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

**(e) Source materials essential to production of fissionable materials**

All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are reserved for the use of the United States.

**(f) Helium ownership; rules and regulations governing extraction**

The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this subchapter, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

(Aug. 7, 1953, ch. 345, § 12, 67 Stat. 469.)

REFERENCES IN TEXT

Paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, referred to in subsec. (e), is par. (1) of section 5(b) of act Aug. 1, 1946, ch. 724, 60 Stat. 755, which was classified to section 1805 of Title 42, The Public Health and Welfare, prior to the

general amendment of the Atomic Energy Act of 1946 by act Aug. 30, 1954, ch. 1073, 68 Stat. 921. See section 2014(z) of Title 42.

KEY LARGO CORAL REEF PRESERVE

Withdrawal of area designated Key Largo Coral Reef Preserve from disposition, see Proc. No. 3339, Mar. 15, 1960, 25 F.R. 2352, set out as a note under section 461 of Title 16, Conservation.

### § 1342. Prior claims as unaffected

Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this subchapter and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this subchapter or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

(Aug. 7, 1953, ch. 345, § 14, 67 Stat. 470.)

### § 1343. Repealed. Pub. L. 105–362, title IX, § 901(*l*)(1), Nov. 10, 1998, 112 Stat. 3290

Section, acts Aug. 7, 1953, ch. 345, § 15, 67 Stat. 470; Pub. L. 95–372, title II, § 207, Sept. 18, 1978, 92 Stat. 648; Pub. L. 99–367, § 2(a), July 31, 1986, 100 Stat. 774, related to Secretary's annual report to Congress concerning outer Continental Shelf leasing and production program and promotion of competition in leasing.

### § 1344. Outer Continental Shelf leasing program

#### (a) Schedule of proposed oil and gas lease sales

The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this subchapter. The leasing program shall consist of a schedule of proposed lease sales indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

#### (b) Estimates of appropriations and staff required for management of leasing program

The leasing program shall include estimates of the appropriations and staff required to—

(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this subchapter;

(3) conduct environmental studies and prepare any environmental impact statement required in accordance with this subchapter and with section 4332(2)(C) of title 42; and

(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

#### (c) Suggestions from Federal agencies and affected State and local governments; submission of proposed program to Governors of affected States and Congress; publication in Federal Register

(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may be-

come an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

(3) Within nine months after September 18, 1978, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

**(d) Comments by Attorney General on anticipated effect on competition; comments by State or local governments; submission of program to President and Congress; issuance of leases in accordance with program**

(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

(3) After the leasing program has been approved by the Secretary, or after eighteen months following September 18, 1978, whichever first occurs, no lease shall be issued unless it is for an area included in the approved leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this subchapter.

**(e) Review, revision, and reapproval of program**

The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

**(f) Procedural regulations for management of program**

The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

(2) public notice of and participation in development of the leasing program;

(3) review by State and local governments which may be impacted by the proposed leasing;

(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 1454 or section 1455 of title 16.

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

**(g) Information from public and private sources; confidentiality of classified or privileged data**

The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this subchapter. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this subchapter, established by regulation, or agreed to by the parties.

**(h) Information from all Federal departments and agencies; confidentiality of privileged or proprietary information**

The heads of all Federal departments and agencies shall provide the Secretary with any nonpriviledged[1] or nonproprietary information he requests to assist him in preparing the leas-

[1] So in original. Probably should be ''nonprivileged''.

ing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

(Aug. 7, 1953, ch. 345, § 18, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 649.)

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior to promulgate regulations under this subchapter which relate to fostering of competition for Federal leases, implementation of alternative bidding systems authorized for award of Federal leases, establishment of diligence requirements for operations conducted on Federal leases, setting of rates for production of Federal leases, and specifying of procedures, terms, and conditions for acquisition and disposition of Federal royalty interests taken in kind, transferred to Secretary of Energy by section 7152(b) of Title 42, The Public Health and Welfare. Section 7152(b) of Title 42 was repealed by Pub. L. 97–100, title II, § 201, Dec. 23, 1981, 95 Stat. 1407, and functions of Secretary of Energy returned to Secretary of the Interior. See House Report No. 97–315, pp. 25, 26, Nov. 5, 1981.

### § 1345. Coordination and consultation with affected State and local governments

#### (a) Recommendations regarding size, time, or location of proposed lease sales

Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

#### (b) Time for submission of recommendations

Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or after receipt of such development and production plan.

#### (c) Acceptance or rejection of recommendations

The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this subchapter. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consultation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

#### (d) Finality of acceptance or rejection of recommendations

The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 1349 of this title, unless found to be arbitrary or capricious.

#### (e) Cooperative agreements

The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this subchapter and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 1352 of this title), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

(Aug. 7, 1953, ch. 345, § 19, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 652.)

### § 1346. Environmental studies

#### (a) Information for assessment and management of impacts on environment; time for study; impacts on marine biota from pollution or large spills

(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale or other lease in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas or other mineral development in such area or region.

(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after September 18, 1978, with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before September 18, 1978, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before September 18, 1978. In the case of an agreement under section 1337(k)(2) of this title, each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be. The Secretary may utilize information collected in any study prior to September 18, 1978.

(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict

impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

**(b) Additional studies subsequent to leasing and development of area**

Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend information which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

**(c) Procedural regulations for conduct of studies; cooperation with affected States; utilization of information from Federal, State and local governments and agencies**

The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

**(d) Consideration of relevant environmental information in developing regulations, lease conditions and operating orders**

The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

**(e) Assessment of cumulative effects of activities on environment; submission to Congress**

As soon as practicable after the end of every 3 fiscal years, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this subchapter on the human, marine, and coastal environments.

**(f) Utilization of capabilities of Department of Commerce**

In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this subchapter.

(Aug. 7, 1953, ch. 345, § 20, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 653; amended Pub. L. 103–426, § 1(b), Oct. 31, 1994, 108 Stat. 4371; Pub. L. 104–66, title I, § 1082(b), Dec. 21, 1995, 109 Stat. 722.)

AMENDMENTS

1995—Subsec. (e). Pub. L. 104–66 substituted ''every 3 fiscal years'' for ''each fiscal year''.

1994—Subsec. (a)(1). Pub. L. 103–426, § 1(b)(1), inserted ''or other lease'' after ''any oil and gas lease sale'' and ''or other mineral'' after ''affected by oil and gas''.

Subsec. (a)(2). Pub. L. 103–426, § 1(b)(2), inserted before last sentence ''In the case of an agreement under section 1337(k)(2) of this title, each study required by paragraph (1) of this subsection shall be commenced not later than 6 months prior to commencing negotiations for such agreement or the entering into the memorandum of agreement as the case may be.''

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 15th item on page 111 identifies a reporting provision which, as subsequently amended, is contained in subsec. (e) of this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

## § 1347. Safety and health regulations

**(a) Joint study of adequacy of existing safety and health regulations; submission to President and Congress**

Upon September 18, 1978, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

**(b) Use of best available and safest economically feasible technologies**

In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 1333(a)(1) of this title, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever

failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

**(c) Regulations applying to unregulated hazardous working conditions**

The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify any regulations, interim or final, dealing with hazardous working conditions on the outer Continental Shelf.

**(d) Application of other laws**

Nothing in this subchapter shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

**(e) Studies of underwater diving techniques and equipment**

The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institute of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include, but need not be limited to, decompression and excursion table development and improvement and all aspects of diver physiological restraints and protective gear for exposure to hostile environments.

**(f) Coordination and consultation with Federal departments and agencies; availability to interested persons of compilation of safety regulations**

(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

(Aug. 7, 1953, ch. 345, § 21, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 654.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 1348. Enforcement of safety and environmental regulations

**(a) Utilization of Federal departments and agencies**

The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this subchapter. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

**(b) Duties of holders of lease or permit**

It shall be the duty of any holder of a lease or permit under this subchapter to—

(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

**(c) Onsite inspection of facilities**

The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this subchapter, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

**(d) Investigation and report on major fires, oil spills, death, or serious injury**

(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pur-

suant to this subchapter, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this subchapter, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this subchapter shall cooperate with the appropriate Secretary in the course of any such investigation.

**(e) Review of allegations of violations**

The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this subchapter.

**(f) Summoning of witnesses and production of evidence**

In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process, as in the district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

(Aug. 7, 1953, ch. 345, § 22, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 655; amended Pub. L. 105–362, title IX, § 901(*l*)(2), Nov. 10, 1998, 112 Stat. 3290.)

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–362 struck out subsec. (g) which read as follows: ''The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to the Congress required by section 1343 of this title the number of violations of safety regulations reported or alleged, any investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations, and the results of the diving studies conducted under section 1347(e) of this title.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REPORT AND RECOMMENDATIONS BY SECRETARY TO CONGRESS FOR TRAINING PROGRAM

Pub. L. 95–372, title VI, § 607, Sept. 18, 1978, 92 Stat. 697, required the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, not later than ninety days after Sept. 18, 1978, to prepare and submit to the Congress a training program report concerning individuals employed on any artificial island, installation, or other device located on the Outer Continental Shelf and who, as part of their employment, operate or supervise the operation of pollution-prevention equipment.

## § 1349. Citizens suits, jurisdiction and judicial review

**(a) Persons who may bring actions; persons against whom action may be brought; time of action; intervention by Attorney General; costs and fees; security**

(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this subchapter against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this subchapter or any regulation promulgated under this subchapter, or of the terms of any permit or lease issued by the Secretary under this subchapter.

(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States or a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropriate Federal official, may intervene as a matter of right.

(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a suffi-

cient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this subchapter, or any regulation promulgated under this subchapter, or the terms of any permit or lease issued by the Secretary under this subchapter, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

**(b) Jurisdiction and venue of actions**

(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals, or (B) the cancellation, suspension, or termination of a lease or permit under this subchapter. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this subchapter may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

**(c) Review of Secretary's approval of leasing program; review of approval, modification or disapproval of exploration or production plan; persons who may seek review; scope of review; certiorari to Supreme Court**

(1) Any action of the Secretary to approve a leasing program pursuant to section 1344 of this title shall be subject to judicial review only in the United States Court of Appeal[1] for the District of Columbia.

(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this subchapter shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a) of this section.

(5) The Secretary shall file in the appropriate court the record of any public hearings required by this subchapter and any additional information upon which the Secretary based his decision, as required by section 2112 of title 28. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

(Aug. 7, 1953, ch. 345, § 23, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 657; amended Pub. L. 98–620, title IV, § 402(44), Nov. 8, 1984, 98 Stat. 3360.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (a)(5), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–620 struck out subsec. (d) which provided that except as to causes of action considered by the court to be of greater importance, any action under this section would take precedence on the docket over all other causes of action and would be set for hearing at the earliest practical date and expedited in every way.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

## § 1350. Remedies and penalties

**(a) Injunctions, restraining orders, etc.**

At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this subchapter, any regulation or order issued under this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter.

[1] So in original. Probably should be "Appeals".

**(b) Civil penalties; hearing**

(1) Except as provided in paragraph (2), if any person fails to comply with any provision of this subchapter, or any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under this subchapter, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $20,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing. The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor.

(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.

**(c) Criminal penalties**

Any person who knowingly and willfully (1) violates any provision of this subchapter, any term of a lease, license, or permit issued pursuant to this subchapter, or any regulation or order issued under the authority of this subchapter designed to protect health, safety, or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this subchapter, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this subchapter, or (4) reveals any data or information required to be kept confidential by this subchapter shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

**(d) Liability of corporate officers and agents for violations by corporation**

Whenever a corporation or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

**(e) Concurrent and cumulative nature of penalties**

The remedies and penalties prescribed in this subchapter shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this subchapter shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(Aug. 7, 1953, ch. 345, § 24, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 659; amended Pub. L. 101–380, title VIII, § 8201, Aug. 18, 1990, 104 Stat. 570.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–380 substituted ''(1) Except as provided in paragraph (2), if any'' for ''If any'', substituted ''$20,000'' for ''$10,000'', inserted at end ''The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor'', and added par. (2).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 1351. Oil and gas development and production

**(a) Development and production plans; submission to Secretary; statement of facilities and operation; submission to Governors of affected States and local governments**

(1) Prior to development and production pursuant to an oil and gas lease issued after September 18, 1978, in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to September 18, 1978, in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to September 18, 1978, the lessee shall submit a development and production plan (hereinafter in this section referred to as a ''plan'') to the Secretary, for approval pursuant to this section.

(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development and production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

(3) Except for any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and state-

ment, shall (A) submit such plan and statement to the Governor of any affected State, and, upon request to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity and the public.

**(b) Development and production activities in accordance with plan as lease requirement**

After September 18, 1978, no oil and gas lease may be issued pursuant to this subchapter in any region of the outer Continental Shelf, other than the Gulf of Mexico, unless such lease requires that development and production activities be carried out in accordance with a plan which complies with the requirements of this section.

**(c) Scope and contents of plan**

A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

(1) the specific work to be performed;

(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

(4) all safety standards to be met and how such standards are to be met;

(5) an expected rate of development and production and a time schedule for performance; and

(6) such other relevant information as the Secretary may by regulation require.

**(d) State concurrence in land or water zone use in coastal zone of State**

The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)], or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)].

**(e) Declaration of approval of development and production plan as major Federal action; submission of preliminary or final lease plans prior to commencement of National Environmental Policy provisions procedures**

(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] shall commence.

**(f) Plans considered major Federal actions; submission of draft environmental impact statement to Governors of affected States and local governments**

If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

**(g) Plans considered nonmajor Federal actions; comments and recommendations from States**

If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

**(h) Approval, disapproval or modification of plan; reapplication; periodic review**

(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pur-

suant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)] unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)]. The Secretary shall disapprove a plan—

(A) if the lessee fails to demonstrate that he can comply with the requirements of this subchapter or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 1334(a) of this title;

(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act [16 U.S.C. 1456(c)(3)(B)(i) or (ii)] and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act [16 U.S.C. 1456(c)(3)(B)(iii)];

(C) if operations threaten national security or national defense; or

(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

(2)(A) If a plan is disapproved—

(i) under subparagraph (A) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

(B) If a plan is disapproved—

(i) under subparagraph (C) or (D) of paragraph (1); or

(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.], and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph, or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease and the lessee shall be entitled to receive compensation in accordance with section 1334(a)(2)(C) of this title. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such lease, without compensation, under the provisions of section 1334(c) of this title.

(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

**(i) Approval of revision of approved plan**

The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this subchapter, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

**(j) Cancellation of lease on failure to submit plan or comply with approved plan**

Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with section 1334(c) and (d) of this title. Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

**(k) Production and transportation of natural gas; submission of plan to Federal Energy Regulatory Commission; impact statement**

If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and

the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to section 717f of title 15, may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

**(*l*) Application of provisions to leases in Gulf of Mexico**

The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this subchapter, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 1333(a)(2) of this title.

(Aug. 7, 1953, ch. 345, § 25, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 659.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (e)(2), (h)(1), and (k), 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 Coastal Zone Management Act of 1972, referred to in subsec. (h)(2)(A)(ii), (B)(ii), is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

## § 1352. Oil and gas information program

**(a) Access to data and information obtained by lessee or permittee from oil or gas exploration, etc., data obtained by Federal department or agency from geological and geophysical explorations**

(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this subchapter shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(ii) by a lessee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the costs attributable to such processing; and

(iv) by a permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary,

pursuant to such regulations as he may prescribe.

(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency pursuant to section 1340 of this title, and any other information which may be necessary or useful to assist him in carrying out the provisions of this subchapter.

**(b) Processing, analyzing, and interpreting information; availability of summary of data to affected States and local government**

(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this subchapter.

(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States, and upon request, to any affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in

areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

**(c) Confidentiality of information; regulations**

The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

**(d) Transmittal of information to affected State; protection of competitive position**

(1) The Secretary shall transmit to any affected State—

(A) an index, and upon request copies of, all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this subchapter, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this section, unless the Secretary determines that transmittal of such data prepared pursuant to subsection (b)(1) of this section would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

**(e) Agreement with State to waive defenses and hold United States harmless from failure to maintain confidentiality of information**

Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) of this section that the State or its employees may commit.

**(f) Civil action against United States or State for failure to maintain confidentiality of information; certain defenses unavailable**

(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

**(g) Preemption of State law by Federal law**

Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this subchapter is expressly preempted by the provisions of this section, to the extent that it applies to such information.

**(h) Failure by State to comply with regulations; withholding of information**

If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

(Aug. 7, 1953, ch. 345, § 26, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 664.)

PAYMENT OF PROCESSING COSTS FOR DATA AND INFORMATION ACQUIRED; PERMITTEES ELIGIBLE

Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 732, provided that: "Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permit-

tees with permits issued on or before September 30, 1985.''

PAYMENT OF COSTS OF REPRODUCING DATA AND INFORMATION PROVIDED TO SECRETARY

Pub. L. 99–190, § 101(d) [title I, § 100], Dec. 19, 1985, 99 Stat. 1224, 1232, provided: ''That notwithstanding any other provision of law, when in fiscal year 1986 and thereafter any permittee provides data and information to the Secretary pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, the Secretary shall pay only the reasonable cost of reproducing such data and information.''

## § 1353. Federal purchase and disposition of oil and gas

### (a) Payment of royalties or net profit shares in oil and gas; purchase of oil and gas by United States; transfer of title to Federal agencies

(1) Except as may be necessary to comply with the provisions of sections 1335 and 1336 of this title, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this subchapter, shall, on demand of the Secretary, be paid in oil or gas.

(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this subchapter, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

### (b) Sale of oil by United States to public; disposition of oil to small refiners; application of other laws

(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this subchapter, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil, or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

### (c) Sale of gas by United States to public

(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, many[1] offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible, and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas, and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region, but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies, less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

### (d) Purchase by lessee of Federal oil or gas for which no bids received

The lessee shall take any Federal oil or gas for which no acceptable bids are received, as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section, and shall pay to the United States a cash amount equal to the regulated price, or, if no regulated price applies, the fair market value of the oil or gas so obtained.

### (e) Definitions

As used in this section—

(1) the term ''regulated price'' means the highest price—

(A) at which oil many[1] be sold pursuant to the Emergency Petroleum Allocation Act of 1973[2] [15 U.S.C. 751 et seq.] and any rule or order issued under such Act;

[1] So in original. Probably should be ''may''.

[2] See References in Text note below.

(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act [15 U.S.C. 717 et seq.], any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

(2) the term ''small refiner'' has the meaning given such term by Small Business Administration Standards 128.3–8(d) and (g), as in effect on September 18, 1978, or as there-after revised or amended.

**(f) Purchase of oil and gas in time of war**

Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 1341(b) of this title.

(Aug. 7, 1953, ch. 345, § 27, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 666.)

REFERENCES IN TEXT

The Emergency Petroleum Allocation Act of 1973, referred to in subsec. (e)(1)(A), is Pub. L. 93–159, Nov. 27, 1973, 87 Stat. 628, as amended, which was classified generally to chapter 16A (§ 751 et seq.) of Title 15, Commerce and Trade, and was omitted from the Code pursuant to section 760g of Title 15, which provided for the expiration of the President's authority under that chapter on Sept. 30, 1981.

The Natural Gas Act, referred to in subsec. (e)(1)(B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15. For complete classification of that Act to the Code, see section 717w of Title 15 and Tables.

TRANSFER OF FUNCTIONS

Functions vested in Secretary of Energy and Department of Energy under or with respect to subsec. (b)(2), (3) of this section, transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42, The Public Health and Welfare.

## § 1354. Limitations on export of oil or gas

**(a) Application of Export Administration provisions**

Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969.

**(b) Condition precedent to exportation; express finding by President of no increase in reliance on imported oil or gas**

Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

**(c) Report of findings by President to Congress; joint resolution of disagreement with findings of President**

The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

**(d) Exchange or temporary exportation of oil and gas for convenience or efficiency of transportation**

The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

(Aug. 7, 1953, ch. 345, § 28, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 668.)

REFERENCES IN TEXT

The Export Administration Act of 1969, referred to in subsecs. (a) and (b), is Pub. L. 91–184, Dec. 30, 1969, 83 Stat. 841, as amended, which was formerly classified to sections 2401 to 2413 of Title 50, Appendix, War and National Defense, and which terminated on Sept. 30, 1979, pursuant to the terms of that Act.

## § 1355. Restrictions on employment of former officers or employees of Department of the Interior

No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this subchapter, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule shall—

(1) within two years after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official respon-

sibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

(2) within one year after his employment with the Department has ceased—

(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

(Aug. 7, 1953, ch. 345, § 29, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 668.)

REFERENCES IN TEXT

The Executive Schedule, referred to in text, is set out in section 5311 et seq. of Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

### § 1356. Documentary, registry and manning requirements

#### (a) Regulations

Within six months after September 18, 1978, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure—

(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this subchapter and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

(2) which is used for activities pursuant to this subchapter, comply, except as provided in subsection (b) of this section, with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this subchapter, be manned or crewed, except as provided in subsection (c) of this section, by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

#### (b) Exceptions from design, construction, alteration, and repair requirements

The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to September 18, 1978, until such time after such date as such vehicle or structure is rebuilt.

#### (c) Exceptions from manning requirements

The regulations issued under subsection (a)(3) of this section shall not apply—

(1) to any vessel, rig, platform, or other vehicle or structure if—

(A) specific contractual provisions or national registry manning requirements in effect on September 18, 1978, provide to the contrary;

(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work; or

(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.

(Aug. 7, 1953, ch. 345, § 30, as added Pub. L. 95–372, title II, § 208, Sept. 18, 1978, 92 Stat. 669.)

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 1356a. Coastal impact assistance program

#### (a) Definitions

In this section:

#### (1) Coastal political subdivision

The term ''coastal political subdivision'' means a political subdivision of a coastal State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of August 8, 2005; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

#### (2) Coastal population

The term ''coastal population'' means the population, as determined by the most recent

official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

**(3) Coastal State**

The term ''coastal State'' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

**(4) Coastline**

The term ''coastline'' has the meaning given the term ''coast line'' in section 1301 of this title.

**(5) Distance**

The term ''distance'' means the minimum great circle distance, measured in statute miles.

**(6) Leased tract**

The term ''leased tract'' means a tract that is subject to a lease under section 1335 or 1337 of this title for the purpose of drilling for, developing, and producing oil or natural gas resources.

**(7) Leasing moratoria**

The term ''leasing moratoria'' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

**(8) Political subdivision**

The term ''political subdivision'' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

**(9) Producing State**

**(A) In general**

The term ''producing State'' means a coastal State that has a coastal seaward boundary within 200 nautical miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

**(B) Exclusion**

The term ''producing State'' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

**(10) Qualified Outer Continental Shelf revenues**

**(A) In general**

The term ''qualified Outer Continental Shelf revenues'' means all amounts received by the United States from each leased tract or portion of a leased tract—

(i) lying—

(I) seaward of the zone covered by section 1337(g) of this title; or

(II) within that zone, but to which section 1337(g) of this title does not apply; and

(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

**(B) Inclusions**

The term ''qualified Outer Continental Shelf revenues'' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this subchapter.

**(C) Exclusion**

The term ''qualified Outer Continental Shelf revenues'' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

**(b) Payments to producing States and coastal political subdivisions**

**(1) In general**

The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section $250,000,000 for each of fiscal years 2007 through 2010.

**(2) Disbursement**

In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c) of this section, and to coastal political subdivisions under paragraph (4), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

**(3) Allocation among producing States**

**(A) In general**

Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

**(B) Amount of outer Continental Shelf revenues**

For purposes of subparagraph (A)—

(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

**(C) Multiple producing States**

In a case in which more than one producing State is located within 200 nautical

miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

(i) the nearest point on the coastline of the producing State; and

(ii) the geographic center of the leased tract.

**(D) Minimum allocation**

The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

**(4) Payments to coastal political subdivisions**

**(A) In general**

The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

**(B) Formula**

Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the coastal population of the coastal political subdivision; bears to

(II) the coastal population of all coastal political subdivisions in the producing State;

(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

(I) the number of miles of coastline of the coastal political subdivision; bears to

(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

**(C) Exception for the State of Louisiana**

For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be ⅓ the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

**(D) Exception for the State of Alaska**

For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the two coastal political subdivisions that are closest to the geographic center of a leased tract.

**(E) Exclusion of certain leased tracts**

For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

**(5) No approved plan**

**(A) In general**

Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c) of this section, the Secretary shall allocate the undisbursed amount equally among all other producing States.

**(B) Retention of allocation**

The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) of this section is decided.

**(C) Waiver**

The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c) of this section.

**(c) Coastal impact assistance plan**

**(1) Submission of State plans**

**(A) In general**

Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

**(B) Public participation**

In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

**(2) Approval**

**(A) In general**

The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

**(B) Components**

The Secretary shall approve a plan submitted under paragraph (1) if—

(i) the Secretary determines that the plan is consistent with the uses described in subsection (d) of this section; and

(ii) the plan contains—

(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

(III) for each coastal political subdivision that receives an amount under this section—

(aa) the name of a contact person; and

(bb) a description of how the coastal political subdivision will use amounts provided under this section;

(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

**(3) Amendment**

Any amendment to a plan submitted under paragraph (1) shall be—

(A) developed in accordance with this subsection; and

(B) submitted to the Secretary for approval or disapproval under paragraph (4).

**(4) Procedure**

Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

**(d) Authorized uses**

**(1) In general**

A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State laws, only for one or more of the following purposes:

(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Planning assistance and the administrative costs of complying with this section.

(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

**(2) Compliance with authorized uses**

If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

**(3) Limitation**

Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described in subparagraphs (C) and (E) of paragraph (1).

**(e) Emergency funding**

**(1) In general**

In response to a spill of national significance under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), at the request of a producing State or coastal political subdivision and notwithstanding the requirements of part 12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary may immediately disburse funds allocated under this section for 1 or more individual projects that are—

(A) consistent with subsection (d); and

(B) specifically designed to respond to the spill of national significance.

**(2) Approval by Secretary**

The Secretary may, in the sole discretion of the Secretary, approve, on a project by project basis, the immediate disbursal of the funds under paragraph (1).

**(3) State requirements**

**(A) Additional information**

If the Secretary approves a project for funding under this subsection that is included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary any additional information that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

**(B) Amendment to plan**

If the Secretary approves a project for funding under this subsection that is not included in a plan previously approved under subsection (c), not later than 90 days after the date of the funding approval, the producing State or coastal political subdivision shall submit to the Secretary for approval an amendment to the plan that includes any projects funded under paragraph (1), as well as any information about such projects that the Secretary determines to be necessary to ensure that the project is in compliance with subsection (d).

**(C) Limitation**

If a producing State or coastal political subdivision does not submit the additional information or amendments to the plan required by this paragraph, or if, based on the information submitted by the Secretary determines that the project is not in compliance with subsection (d), by the deadlines specified in this paragraph, the Secretary shall not disburse any additional funds to the producing State or the coastal political subdivisions until the date on which the additional information or amendment to the plan has been approved by the Secretary.

(Aug. 7, 1953, ch. 345, § 31, as added Pub. L. 106–553, § 1(a)(2) [title IX, § 903], Dec. 21, 2000, 114

Stat. 2762, 2762A–124; amended Pub. L. 109–58, title III, § 384, Aug. 8, 2005, 119 Stat. 739; Pub. L. 111–212, title III, § 3013, July 29, 2010, 124 Stat. 2341.)

REFERENCES IN TEXT

The Coastal Zone Management Act of 1972, referred to in subsec. (a)(2), is title III of Pub. L. 89–454, as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

Sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005, referred to in subsec. (a)(7), are sections 107 to 109 of Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3063, 3064, which are not classified to the Code.

The Oil Pollution Act of 1990, referred to in subsec. (e)(1), is Pub. L. 101–380, Aug. 18, 1990, 104 Stat. 484, which is classified principally to chapter 40 (§ 2701 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 33 and Tables.

AMENDMENTS

2010—Subsec. (e). Pub. L. 111–212 added subsec. (e).

2005—Pub. L. 109–58 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to construction of section, definitions, authorization of appropriations, payments to States and political subdivisions, coastal impact assistance plan by the Governor of each producing coastal State, authorized uses of amounts provided, and repayment of amounts inconsistent with authorized uses.

## CHAPTER 30—ADMINISTRATION OF PUBLIC LANDS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
1361 to 1364. Repealed.

SUBCHAPTER II—SERVICE CHARGES AND EXCESS PAYMENTS

1371 to 1374. Repealed.

SUBCHAPTER III—DEPOSITS AND FORFEITURES

1381 to 1383. Repealed.

SUBCHAPTER IV—PUBLIC LAND LAW REVIEW COMMISSION

1391 to 1400. Omitted.

SUBCHAPTER V—CLASSIFICATION OF LANDS TO PROVIDE FOR DISPOSAL OR INTERIM MANAGEMENT

1411 to 1418. Omitted.

SUBCHAPTER VI—SALE OF PUBLIC LAND

1421 to 1427. Omitted.

SUBCHAPTER VII—SALE OF PUBLIC LANDS SUBJECT TO UNINTENTIONAL TRESPASS

1431 to 1435. Omitted.

SUBCHAPTER VIII—PUBLIC AIRPORTS

1441. Lease of contiguous public lands for public airports; authority of Secretary of the Interior.
1442. Terms of lease; public lands for public airports.
1443. Cancellation of leases of public lands used as airports made under law in force May 24, 1928.

SUBCHAPTER I—GENERAL PROVISIONS

### §§ 1361 to 1364. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1361, Pub. L. 86–649, § 2, July 14, 1960, 74 Stat. 506, defined ''public lands''.

Section 1362, Pub. L. 86–649, title I, § 101, July 14, 1960, 74 Stat. 506, authorized the Secretary of the Interior to conduct investigations, etc., for improvement, management, use, and protection of public lands and resources.

Section 1362a, Pub. L. 91–429, Sept. 26, 1970, 84 Stat. 885, authorized contracts for use of aircraft, services, and supplies for protection from fire of public lands administered by the Secretary of the Interior.

Section 1363, Pub. L. 86–649, title I, § 102, July 14, 1960, 74 Stat. 506, authorized cooperative agreements by Secretary of the Interior with respect to improvement, etc., of public lands and resources.

Section 1364, Pub. L. 86–649, title I, § 103, July 14, 1960, 74 Stat. 506, authorized acceptance of contributions by Secretary of the Interior with respect to improvements, etc., of public lands and resources.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

SUBCHAPTER II—SERVICE CHARGES AND EXCESS PAYMENTS

### §§ 1371, 1372. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1371, Pub. L. 86–649, title II, § 201, July 14, 1960, 74 Stat. 506, related to fees, charges, and commissions for applications and other documents relating to public lands and resources.

Section 1372, Pub. L. 86–649, title II, § 202(a), July 14, 1960, 74 Stat. 506, provided that existing fees, charges, and commissions remain in effect until changed or abolished by the Secretary.

REPEALS

Section 202(b) of Pub. L. 86–649 provided that: ''Subject to the provisions of this section, any provisions in statutes which fix fees, service fees or charges, or commissions for the purposes covered in this title, are hereby repealed, including, without limitation, the first proviso of the General Land Office appropriations in the Act of February 14, 1931 (46 Stat. 1115, 1118; 43 U.S.C. 23), section 2239 of the Revised Statutes (43 U.S.C. 84), and such provisions of the following Acts as are contained in section 82, title 43, United States Code:

| *Act* | *Citation* |
|---|---|
| ''Revised Statutes | Section 2238. |
| ''May 14, 1880 (in sec. 2) | 21 Stat. 140, 141. |
| ''December 17, 1880 | 21 Stat. 311. |
| ''July 26, 1892 | 27 Stat. 270. |
| ''March 22, 1904 | 33 Stat. 144. |
| ''May 29, 1908 (in sec. 14) | 35 Stat. 465, 468. |
| ''January 24, 1923 | 42 Stat. 1174, 1179. |
| ''June 5, 1924 | 43 Stat. 390, 395. |
| ''March 3, 1925 | 43 Stat. 1141, 1145.'' |

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

### §§ 1373, 1374. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1373, Pub. L. 86–649, title II, § 203, July 14, 1960, 74 Stat. 507, related to price of copies of records furnished by the Department of the Interior.

Section 1374, Pub. L. 86–649, title II, § 204(a), July 14, 1960, 74 Stat. 507, related to refund of excess or other payments.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER III—DEPOSITS AND FORFEITURES

### §§ 1381 to 1383. Repealed. Pub. L. 94–579, title VII, § 705(a), Oct. 21, 1976, 90 Stat. 2792

Section 1381, Pub. L. 86–649, title III, § 301, July 14, 1960, 74 Stat. 507, related to forfeiture of bond or deposit by timber purchaser or permittee.

Section 1382, Pub. L. 86–649, title III, § 302, July 14, 1960, 74 Stat. 507, related to maintenance of roads and trails under jurisdiction of Bureau of Land Management and deposit of funds to insure maintenance.

Section 1383, Pub. L. 86–649, title III, § 303, July 14, 1960, 74 Stat. 508, related to Oregon and California Railroad and Coos Bay Wagon Road Grant lands.

EFFECTIVE DATE OF REPEAL

Section 705(a) of Pub. L. 94–579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal 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.

## SUBCHAPTER IV—PUBLIC LAND LAW REVIEW COMMISSION

### §§ 1391 to 1400. Omitted

CODIFICATION

Sections 1391 to 1400 of this title, which related to the Public Land Law Review Commission, were omitted in view of the termination of the Commission pursuant to section 1394 of this title.

Section 1391, Pub. L. 88–606, § 1, Sept. 19, 1964, 78 Stat. 982, related to Congressional declaration of policy.

Section 1392, Pub. L. 88–606, § 2, Sept. 19, 1964, 78 Stat. 982, provided for review of public land laws.

Section 1393, Pub. L. 88–606, § 3, Sept. 19, 1964, 78 Stat. 982, established Public Land Law Review Commission and provided for membership, a chairman, vacancies, and compensation.

Section 1394, Pub. L. 88–606, § 4, Sept. 19, 1964, 78 Stat. 983; Pub. L. 90–213, § 1(1), (2), Dec. 18, 1967, 81 Stat. 660, related to duties of Commission and provided that Commission, not later than June 30, 1970, submit its final report to President and Congress and that six months after submission of this report or on Dec. 31, 1970, whichever was earlier, the Commission cease to exist.

Section 1395, Pub. L. 88–606, § 5, Sept. 19, 1964, 78 Stat. 983, related to departmental liaison officers.

Section 1396, Pub. L. 88–606, § 6, Sept. 19, 1964, 78 Stat. 983, established an advisory council to aid Commission.

Section 1397, Pub. L. 88–606, § 7, Sept. 19, 1964, 78 Stat. 984, related to representation of State Governors.

Section 1398, Pub. L. 88–606, § 8, Sept. 19, 1964, 78 Stat. 984; Pub. L. 90–213, § 1(4), Dec. 18, 1967, 81 Stat. 660, related to powers of Commission.

Section 1399, Pub. L. 88–606, § 9, Sept. 19, 1964, 78 Stat. 985; Pub. L. 90–213, § 1(3), Dec. 18, 1967, 81 Stat. 660, related to appropriations, compensation of chairman and staff director, contracts and transfer of fund.

Section 1400, Pub. L. 88–606, § 10, Sept. 19, 1964, 78 Stat. 985, defined public land as used in this subchapter.

## SUBCHAPTER V—CLASSIFICATION OF LANDS TO PROVIDE FOR DISPOSAL OR INTERIM MANAGEMENT

### §§ 1411 to 1418. Omitted

CODIFICATION

Sections 1411 to 1418 of this title, which related to the classification of lands to provide for disposal or interim management, were omitted pursuant to section 1418 of this title which terminated this authority.

Section 1411, Pub. L. 88–607, § 1, Sept. 19, 1964, 78 Stat. 986, authorized Secretary of the Interior to classify lands for purpose of disposal or retention.

Section 1412, Pub. L. 88–607, § 2, Sept. 19, 1964, 78 Stat. 986, related to publication of notice by Secretary.

Section 1413, Pub. L. 88–607, § 3, Sept. 19, 1964, 78 Stat. 986, related to development and administration of lands for multiple use and sustained yield.

Section 1414, Pub. L. 88–607, § 4, Sept. 19, 1964, 78 Stat. 987, related to exemption of lands from other forms of disposal for certain period of time.

Section 1415, Pub. L. 88–607, § 5, Sept. 19, 1964, 78 Stat. 987, related to definitions.

Section 1416, Pub. L. 88–607, § 6, Sept. 19, 1964, 78 Stat. 988, related to supplemental legislation and provided that this subchapter not be construed as repealing any existing laws.

Section 1417, Pub. L. 88–607, § 7, Sept. 19, 1964, 78 Stat. 988, related to restrictions.

Section 1418, Pub. L. 88–607, § 8, Sept. 19, 1964, 78 Stat. 988; Pub. L. 90–213, § 2, Dec. 18, 1967, 81 Stat. 660, provided that the authorizations and requirements of this subchapter expire six months after the final report of the Public Land Law Review Commission, which report was to be submitted not later than June 30, 1970.

## SUBCHAPTER VI—SALE OF PUBLIC LAND

### §§ 1421 to 1427. Omitted

CODIFICATION

Sections 1421 to 1427 of this title, which related to the sale of public land, were omitted pursuant to section 1427 of this title, which terminated this authority.

Section 1421, Pub. L. 88–608, § 1, Sept. 19, 1964, 78 Stat. 988, authorized and directed Secretary of the Interior to dispose of public lands in tracts not exceeding a certain size at the appraised fair market value thereof.

Section 1422, Pub. L. 88–608, § 2, Sept. 19, 1964, 78 Stat. 988, related to notification of local zoning authority by the Secretary of the Interior.

Section 1423, Pub. L. 88–608, § 3, Sept. 19, 1964, 78 Stat. 989, related to notice of land offerings by publication.

Section 1424, Pub. L. 88–608, § 4, Sept. 19, 1964, 78 Stat. 989, related to title reservations.

Section 1425, Pub. L. 88–608, § 5, Sept. 19, 1964, 78 Stat. 989, defined ''public lands'', ''qualified governmental agency'', and ''qualified individual''.

Section 1426, Pub. L. 88–608, § 6, Sept. 19, 1964, 78 Stat. 989, related to sales in Alaska.

Section 1427, Pub. L. 88–608, § 7, Sept. 19, 1964, 78 Stat. 989; Pub. L. 90–213, § 3, Dec. 18, 1967, 81 Stat. 660, provided that authority granted by this subchapter expire six months after final report of the Public Land Law

Review Commission, which report was to be submitted not later than June 30, 1970, except that sales concerning which notice had been given in accordance with section 1423 of this title prior to such time could be consummated and patents issued in connection therewith after such time.

## SUBCHAPTER VII—SALE OF PUBLIC LANDS SUBJECT TO UNINTENTIONAL TRESPASS

### §§ 1431 to 1435. Omitted

CODIFICATION

Sections 1431 to 1435, relating to the sale of public lands subject to unintentional trespass, were omitted pursuant to section 1435 of this title, which provided for an expiration date three years after September 26, 1968, with certain exceptions.

Section 1431, Pub. L. 90–516, § 1, Sept. 26, 1968, 82 Stat. 870, authorized Secretary of the Interior to sell at public auction any tract of public domain not exceeding a certain size which was subject to unintentional trespass.

Section 1432, Pub. L. 90–516, § 2, Sept. 26, 1968, 82 Stat. 870, related to preference rights of contiguous landowners.

Section 1433, Pub. L. 90–516, § 3, Sept. 26, 1968, 82 Stat. 870, related to continuing liability for unauthorized prior use.

Section 1434, Pub. L. 90–516, § 4, Sept. 26, 1968, 82 Stat. 870, related to acreage limitations.

Section 1435, Pub. L. 90–516, § 5, Sept. 26, 1968, 82 Stat. 870, provided that authority granted by this subchapter expire three years from Sept. 26, 1968, except that sales for which application had been made in accordance with this subchapter prior to expiration of that period could be consummated and patents issued after expiration of that period.

## SUBCHAPTER VIII—PUBLIC AIRPORTS

### § 1441. Lease of contiguous public lands for public airports; authority of Secretary of the Interior

The Secretary of the Interior is authorized, in his discretion and under such regulations as he may prescribe, to lease for use as a public airport any contiguous public lands, unreserved and unappropriated, not to exceed two thousand five hundred and sixty acres in area, subject to valid rights in such lands under the public-land laws.

(May 24, 1928, ch. 728, § 1, 45 Stat. 728; Aug. 16, 1941, ch. 354, 55 Stat. 621.)

CODIFICATION

Section was previously classified to section 211 of former Title 49, Transportation.

AMENDMENTS

1941—Act Aug. 16, 1941, increased area of land authorized for lease as airport from six hundred and forty acres to two thousand five hundred and sixty acres.

### § 1442. Terms of lease; public lands for public airports

Any lease under section 1441 of this title shall be for a period not to exceed twenty years, subject to renewal for like periods upon agreement of the Secretary of the Interior and the lessee. Any such lease shall be subject to the following conditions:

(a) That an annual rental of such sum as the Secretary of the Interior may fix for the use of the lands shall be paid to the United States.

(b) That the lessee shall maintain the lands in such condition, and provide for the furnishing of such facilities, service, fuel, and other supplies, as are necessary to make the lands available for public use as an airport of a rating which may be prescribed by the Administrator of the Federal Aviation Agency.

(c) That the lessee shall make reasonable regulations to govern the use of the airport, but such regulations shall take effect only upon approval by the Administrator of the Federal Aviation Agency.

(d) That all departments and agencies of the United States operating aircraft (1) shall have free and unrestricted use of the airport, and (2) with the approval of the Secretary of the Interior, shall have the right to erect and install therein such structures and improvements as the heads of such departments and agencies deem advisable, including facilities for maintaining supplies of fuel, oil, and other materials for operating aircraft.

(e) That whenever the President may deem it necessary for military purposes, the Secretary of the Army may assume full control of the airport.

(May 24, 1928, ch. 728, § 2, 45 Stat. 728; June 23, 1938, ch. 601, § 1107(b), 52 Stat. 1027; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 85–726, title XIV, §§ 1401(b), 1402(a), Aug. 23, 1958, 72 Stat. 806.)

CODIFICATION

Section was previously classified to section 212 of former Title 49, Transportation.

AMENDMENTS

1958—Subsecs. (b), (c). Pub. L. 85–726, § 1402(a), substituted ''Administrator of the Federal Aviation Agency'' for ''Civil Aeronautics Authority''.

1938—Subsecs. (b), (c). Act June 23, 1938, substituted ''Civil Aeronautics Authority'' for ''Secretary of Commerce''.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted ''Title 10, Armed Forces'' which in sections 3010 to 3013 continued Department of the Army under administrative supervision of a Secretary of the Army.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 1505(2) of Pub. L. 85–726 provided that the amendment made by Pub. L. 85–726 is effective on 60th day following date on which Administrator of Federal Aviation Agency first appointed under Pub. L. 85–726 qualifies and takes office. Administrator appointed, qualified, and took office Oct. 31, 1958.

TRANSFER OF FUNCTIONS

For transfer of certain real property and functions relating to real property, insofar as they pertain to Air Force, from Secretary of the Army and Department of the Army to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order No. 14 [§ 2(17)], eff. July 1, 1948.

### § 1443. Cancellation of leases of public lands used as airports made under law in force May 24, 1928

With the consent of the lessee, the Secretary of the Interior is authorized to cancel any lease

of public lands for use as public aviation fields or airports, made under law in force May 24, 1928, and to lease such lands to the lessee upon the conditions prescribed by section 1442 of this title.

(May 24, 1928, ch. 728, § 3, 45 Stat. 729.)

CODIFICATION

Section was previously classified to section 213 of former Title 49, Transportation.

## CHAPTER 31—DEPARTMENT OF THE INTERIOR

Sec.
1451. Establishment.
1452. Deputy Secretary of the Interior; appointment.
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1474a. Emergency Department of the Interior Firefighting Fund; amounts considered ''emergency requirements''.
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1474c. North American Wetlands Conservation Fund; availability of fines or forfeitures.
1474d. Environmental Improvement and Restoration Fund.
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1474f. Sums received by the Bureau of Land Management from vendors under enterprise information technology-procurements.
1475. Bureau of Reclamation acceptance of services of volunteers.
1475a. Participation of non-Federal entities in contract negotiations and source selection proceedings.
1475b Volunteer authority.

### § 1451. Establishment

There shall be at the seat of government an executive department to be known as the Department of the Interior, and a Secretary of the Interior, who shall be the head thereof.

(R.S. § 437.)

CODIFICATION

R.S. § 437 derived from act Mar. 3, 1849, ch. 108, § 1, 9 Stat. 395.

Section was formerly classified to section 481 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–125, § 1, Dec. 7, 2005, 119 Stat. 2544, provided that: ''This Act [enacting section 1475b of this title and provisions set out as a note under section 1475b of this title] may be cited as the 'Department of the Interior Volunteer Recruitment Act of 2005'.''

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2,

eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out below.

STEWART LEE UDALL DEPARTMENT OF THE INTERIOR BUILDING

Pub. L. 111–176, June 8, 2010, 124 Stat. 1259, provided that:

''SECTION 1. DESIGNATION.

''The United States Department of the Interior Building located at 1849 C Street, Northwest, in Washington, District of Columbia, shall be known and designated as the 'Stewart Lee Udall Department of the Interior Building'.

''SEC. 2. REFERENCES.

''Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be considered to be a reference to the 'Stewart Lee Udall Department of the Interior Building'.''

CHARGES FOR USE OF PROPERTY AT MAIN AND SOUTH INTERIOR BUILDING COMPLEX, WASHINGTON, D.C.

Pub. L. 106–113, div. B, §1000(a)(3) [title I, §115], Nov. 29, 1999, 113 Stat. 1535, 1501A-158, provided that: ''Notwithstanding any other provision of law, in fiscal year 2000 and thereafter, the Secretary is authorized to permit persons, firms or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in section 612a of title 40, United States Code) [now sections 3301(a)(4), (5) and 3306(a) of Title 40, Public Buildings, Property, and Works] not currently occupying such space to use courtyards, auditoriums, meeting rooms, and other space of the main and south Interior building complex, Washington, D.C., the maintenance, operation, and protection of which has been delegated to the Secretary from the Administrator of General Services pursuant to the Federal Property and Administrative Services Act of 1949 [see chapters 1 to 11 of Title 40, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], and to assess reasonable charges therefore, subject to such procedures as the Secretary deems appropriate for such uses. Charges may be for the space, utilities, maintenance, repair, and other services. Charges for such space and services may be at rates equivalent to the prevailing commercial rate for comparable space and services devoted to a similar purpose in the vicinity of the main and south Interior building complex, Washington, D.C., for which charges are being assessed. The Secretary may without further appropriation hold, administer, and use such proceeds within the Departmental Management Working Capital Fund to offset the operation of the buildings under his jurisdiction, whether delegated or otherwise, and for related purposes, until expended.''

Similar provisions were contained in Pub. L. 105–277, div. A, §101(e) [title I, §117], Oct. 21, 1998, 112 Stat. 2681–231, 2681–256.

COMPENSATION OF SECRETARY

Compensation of Secretary, see section 5312 of Title 5, Government Organization and Employees.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of the Interior are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13244, Dec. 18, 2001, 66 F.R. 66267, set out as a note under section 3345 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 9432

Ex. Ord. No. 9432, eff. Mar. 28, 1944, 9 F.R. 3411, which related to designation of Under Secretary and Assistant Secretaries of the Interior to act as Secretary of the Interior, was superseded by Ex. Ord. No. 9866, eff. June 14, 1947, 12 F.R. 3909, formerly set out below.

EXECUTIVE ORDER NO. 9866

Ex. Ord. No. 9866, eff. June 14, 1947, 12 F.R. 3909, which related to designation of officers to act as Secretary of the Interior, was superseded by Ex. Ord. No. 10156, eff. Aug. 26, 1950, 15 F.R. 5789, formerly out below.

EXECUTIVE ORDER NO. 10156

Ex. Ord. No. 10156, eff. Aug. 26, 1950, 15 F.R. 5789, which related to designation of certain officers of Department of the Interior to act as Secretary of the Interior, was superseded by Ex. Ord. No. 10753, eff. Feb. 15, 1958, 23 F.R. 1107, formerly set out below.

EXECUTIVE ORDER NO. 10753

Ex. Ord. No. 10753, eff. Feb. 15, 1958, 23 F.R. 1107, which provided for succession to office of Secretary of the Interior, was superseded by Ex. Ord. No. 11487, eff. Oct. 6, 1969, 34 F.R. 15593, formerly set out as a note under section 3345 of Title 5, Government Organization and Employees.

**REORGANIZATION PLAN NO. 3 OF 1950**

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, as amended June 1, 1971, Pub. L. 92–22, §3, 85 Stat. 76.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

DEPARTMENT OF THE INTERIOR

SECTION 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see 5 U.S.C. 551 et seq. and 701 et seq.] in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

SEC. 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by an other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

SEC. 3. ASSISTANT SECRETARY OF THE INTERIOR

There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

SEC. 4. ADMINISTRATIVE ASSISTANT SECRETARY

[Repealed. Pub. L. 92–22, §3, June 1, 1971, 85 Stat. 76. Section authorized appointment of Administrative Assistant Secretary of the Interior. See 43 U.S.C. 1453a and 5 U.S.C. 5315. Section 3 provided that such repeal be effective upon Senate confirmation of Presidential appointment of Assistant Secretary of the Interior under successor provisions.]

SEC. 5. INCIDENTAL TRANSFERS

The Secretary of the Interior may from time to time effect such transfers within the Department of the In-

terior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of the Interior. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Secretary of the Interior and an Administrative Assistant Secretary of the Interior. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

## § 1452. Deputy Secretary of the Interior; appointment

The position of Deputy Secretary is established in the Department of the Interior with appointment thereto by the President, by and with the advice and consent of the Senate.

(May 9, 1935, ch. 101, § 1, 49 Stat. 177; Pub. L. 101–509, title V, § 529 [title I, § 112(a)(2)], Nov. 5, 1990, 104 Stat. 1427, 1454.)

CODIFICATION

Provisions of this section which prescribed the annual rate of basic compensation of the Deputy Secretary were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5313 of Title 5, Government Organization and Employees.

Section was formerly classified to section 481a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1990—Pub. L. 101–509 substituted ''Deputy Secretary'' for ''Under Secretary''.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of the Interior, see section 529 [title I, § 112(e)(1), (2)(B)] of Pub. L. 101–509, set out as a note under section 3404 of Title 20, Education.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

## § 1453. Assistant Secretaries of the Interior

There shall be in the Department of the Interior two Assistant Secretaries of the Interior who shall be without numerical distinction of rank and who shall be appointed by the President, by and with the advice and consent of the Senate.

(R.S. § 438; Mar. 3, 1885, ch. 360, 23 Stat. 497; Mar. 3, 1917, ch. 163, § 1, 39 Stat. 1102; Feb. 29, 1944, ch. 72, 58 Stat. 107.)

CODIFICATION

Act Feb. 29, 1944, provided that the Assistant Secretaries shall be without numerical distinction of rank.

R.S. § 438 derived from acts Mar. 14, 1862, ch. 41, § 6, 12 Stat. 369; Mar. 3, 1873, ch. 226, § 1, 17 Stat. 486.

Section was formerly classified to section 482 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Functions, powers, and duties of Office of Audit and Investigation in Department of the Interior transferred to Office of Inspector General in Department of the Interior, as established by section 9(a)(1)(F) of Inspector General Act of 1978, Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees.

ADMINISTRATIVE ASSISTANT SECRETARY

An Administrative Assistant Secretary of the Interior, to be appointed, with the approval of the President, by the Secretary of the Interior under the classified civil service, to perform such duties as the Secretary of the Interior shall prescribe, and to receive compensation at the rate of $14,800 per annum, was provided for by section 4 of Reorg. Plan No. 3 of 1950, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out as a note under section 1451 of this title, prior to repeal of section 4 by Pub. L. 92–22, § 3, June 1, 1971, 85 Stat. 76.

ADDITIONAL ASSISTANT SECRETARY

An additional Assistant Secretary of the Interior, to be appointed by the President, by and with the advice and consent of the Senate, to perform such duties as the Secretary of the Interior shall prescribe, and to receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments, was provided for by Reorg. Plan No. 3 of 1950, § 3, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in note under section 1451 of this title.

TEMPORARY ADDITIONAL ASSISTANT SECRETARY

The office of a temporary additional Assistant Secretary of the Interior, which was provided for by act Feb. 29, 1944, ch. 72, 58 Stat. 107, ceased to exist by the terms of such act at the expiration of six months following the cessation of hostilities in World War II, which was proclaimed by the President at 12 o'clock noon of December 31, 1946, in Proc. No. 2714, 12 F.R. 1, set out as a note under section 601 of the Appendix to Title 50, War and National Defense.

## § 1453a. Additional Assistant Secretary of the Interior; appointment; duties; compensation

There shall be hereafter in the Department of the Interior, in addition to the Assistant Sec-

retaries now provided by law, an additional Assistant Secretary of the Interior who shall be appointed by the President by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of the Interior shall prescribe, and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of the Interior.

(Pub. L. 92–22, § 1, June 1, 1971, 85 Stat. 75.)

SENATE CONFIRMATION OF PRESIDENTIAL APPOINTMENT OF ADDITIONAL ASSISTANT SECRETARY OF THE INTERIOR AS REPEALING PROVISIONS FOR ASSISTANT SECRETARY OF THE INTERIOR FOR ADMINISTRATION

Section 3 of Pub. L. 92–22 provided that: ''Section 4 of Reorganization Plan Numbered 3 of 1950, as amended (64 Stat. 1262) [set out under section 1451 of this title], and item (25) of section 5316, title 5, United States Code, are repealed, effective upon the confirmation by the United States Senate of a Presidential appointee to fill the position created by this Act [enacting this section and section 5315(18) of Title 5, Government Organization and Employees].''

### § 1454. Duties of Assistant Secretary and assistant to Secretary

The Assistant Secretary of the Interior shall perform such duties in the Department of the Interior as shall be prescribed by the Secretary, or may be required by law. The assistant to the Secretary of the Interior is authorized to sign such official papers and documents as the Secretary may direct.

(R.S. § 439; Mar. 28, 1918, ch. 29, 40 Stat. 499.)

CODIFICATION

R.S. § 439 derived from act Mar. 14, 1862, ch. 41, § 6, 12 Stat. 369.

Section was formerly classified to section 483 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 1455. Solicitor; appointment; duties

On and after June 26, 1946 the legal work of the Department of the Interior shall be performed under the supervision and direction of the Solicitor of the Department of the Interior, who shall be appointed by the President with the advice and consent of the Senate.

(June 26, 1946, ch. 494, 60 Stat. 312.)

CODIFICATION

Provisions of this section which prescribed the compensation of the Solicitor were omitted to conform to the provisions of the Federal Executive Salary Schedule. See section 5311 et seq. of Title 5, Government Organization and Employees.

Section was formerly classified to section 483a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1456. Chief clerk

The chief clerk of the Department of the Interior on and after July 3, 1926, shall be the chief executive officer of the department and may be designated by the Secretary to sign official papers and documents, including the authorization of expenditures from the contingent and other appropriations for the department, its bureaus and offices, section 3683[1] of the Revised Statutes to the contrary notwithstanding.

(July 3, 1926, ch. 771, § 1, 44 Stat. 854.)

REFERENCES IN TEXT

Section 3683 of the Revised Statutes, referred to in text, was classified to section 675 of former Title 31, Money and Finance, and repealed by act Sept. 12, 1950, ch. 946, title III, § 301(76), 64 Stat. 843.

CODIFICATION

Section was formerly classified to section 484 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriations acts:

May 24, 1922, ch. 199, 42 Stat. 552.
Jan. 24, 1923, ch. 42, 42 Stat. 1174.
June 5, 1924, ch. 264, 43 Stat. 391.
Mar. 3, 1925, ch. 462, 43 Stat. 1142.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

DIVISION OF ADMINISTRATIVE SERVICES

Interior Department Order No. 2546, dated Dec. 7, 1949 and amended Jan. 20, 1950, set up the Office of Administrative Management with an executive officer in charge, and the Chief Clerk of the Department was placed in charge of a Division of Administrative Services under that office. A further amendment to Department Order No. 2546, dated Aug. 15, 1950, placed the Division of Administrative Services, with the Chief Clerk in charge, under the Administrative Assistant Secretary of the Interior Department.

### § 1456a. Repealed. Pub. L. 95–164, title III, § 306(b), Nov. 9, 1977, 91 Stat. 1322

Section, Pub. L. 93–153, title IV, § 405, Nov. 16, 1973, 87 Stat. 590, provided for appointment by the President of head of Mining Enforcement and Safety Administration.

EFFECTIVE DATE OF REPEAL

Repeal effective 120 days after Nov. 9, 1977, see section 307 of Pub. L. 95–164, set out as an Effective Date of 1977 Amendment note under section 801 of Title 30, Mineral Lands and Mining.

### § 1457. Duties of Secretary

The Secretary of the Interior is charged with the supervision of public business relating to the following subjects and agencies:

1. Alaska Railroad.
2. Alaska Road Commission.
3. Bounty-lands.
4. Bureau of Land Management.
5. United States Bureau of Mines.
6. Bureau of Reclamation.

[1] See References in Text note below.

7. Division of Territories and Island Possessions.
8. Fish and Wildlife Service.
9. United States Geological Survey.
10. Indians.
11. National Park Service.
12. Petroleum conservation.
13. Public lands, including mines.

(R.S. § 441; Mar. 3, 1879, ch. 182, 20 Stat. 394; Jan. 12, 1895, ch. 23, 28 Stat. 601; June 17, 1902, ch. 1093, § 1, 32 Stat. 388; Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1422; July 1, 1916, ch. 209, § 1, 39 Stat. 309; Aug. 25, 1916, ch. 408, 39 Stat. 535; Ex. Ord. No. 3861, eff. June 8, 1923; Ex. Ord. No. 4175, eff. Mar. 17, 1925; Ex. Ord. No. 5398, eff. July 21, 1930; June 30, 1932, ch. 320, § 1, 47 Stat. 446; Ex. Ord. No. 6611, eff. Feb. 22, 1934; Ex. Ord. No. 6726, eff. May 29, 1934; June 28, 1934, ch. 865, § 1, 48 Stat. 1269; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1236; 1946 Reorg. Plan No. 3, § 403(a), eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 85–56, title XXII, § 2201(1), June 17, 1957, 71 Stat. 157; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172.)

CODIFICATION

R.S. § 441 derived from acts Mar. 3, 1849, ch. 108, §§ 3, 5 to 9, 9 Stat. 395; Feb. 5, 1859, ch. 22, § 1, 11 Stat. 379; July 20, 1868, ch. 176, § 1, 15 Stat. 92, 106; July 8, 1870, ch. 230, § 1, 16 Stat. 198.

Section was formerly classified to section 485 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1957—Pub. L. 85–56 substituted ''Bounty-lands'' for ''Pensions and bounty-lands'' in par. 3.

CHANGE OF NAME

''United States Bureau of Mines'' substituted for ''Bureau of Mines'' in par. (5) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining.

''United States Geological Survey'' substituted for ''Geological Survey'' in par. 9 pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1957 AMENDMENT

Amendment by Pub. L. 85–56 effective Jan. 1, 1958, see section 2301 of Pub. L. 85–56.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

Functions of General Land Office and of Grazing Service consolidated into a new agency known as Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403(a), eff. July 16, 1946. See note set out under section 1 of this title.

The following subjects of which Secretary of the Interior was charged with supervision by R.S. § 441, were transferred in the manner indicated:

Census—Transferred to Department of Commerce and Labor by act Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826. (See Title 13, Census.)

Pensions—Transferred to Veterans' Administration by Ex. Ord. No. 5398 of July 21, 1930, pursuant to act July 3, 1930, ch. 863, § 1, 46 Stat. 1016. (See Title 38, Veterans' Benefits.)

Patents—Transferred to Department of Commerce by Ex. Ord. No. 4175 of Mar. 17, 1925, pursuant to act Feb. 14, 1903, ch. 552 § 12, 32 Stat. 830. (See Title 35, Patents.)

Publications, custody and distribution—Transferred to Public Printer and superintendent of documents by act Jan. 12, 1895, ch. 23, 28 Stat. 601. (See Title 44, Public Printing and Documents.)

Education—Transferred to Federal Security Agency by Reorg. Plan No. I of 1939, § 201, 4 F.R. 2728 53 Stat. 1424, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, and its functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5. Functions of Department of Health, Education, and Welfare (relating to education) transferred to Secretary of Education by section 3441 of Title 20, Education.

Government Hospital for the Insane—Designated St. Elizabeths Hospital by act July 1, 1916, ch. 209, § 1, 39 Stat. 309—Transferred to Federal Security Agency by Reorg. Plan No. IV of 1940, § 11, 5 F.R. 2422, 54 Stat. 1236, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, and its functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5. Department of Health, Education, and Welfare redesignated Department of Health and Human Services by section 3508(b) of Title 20, Education.

Columbia Asylum for the Deaf and Dumb—Designated ''Columbia Institution for the Deaf'' by act Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1422, thereafter ''Gallaudet College'' by act June 18, 1954, ch. 324, § 1, 68 Stat. 265, and subsequently ''Gallaudet University'' by Pub. L. 99–371, title I, § 101(a), Aug. 4, 1986, 100 Stat. 781.—Transferred to Federal Security Agency by Reorg. Plan No. IV of 1940, § 11, 5 F.R. 2422, 54 Stat. 1236. Federal Security Agency abolished by section 8 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees, and functions transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5. Functions of Department of Health, Education, and Welfare (relating to education) transferred to Secretary of Education by section 3441 of Title 20, Education. See, also, section 4301 et seq. of Title 20.

The following subjects and agencies were placed under supervision of Secretary of the Interior by acts and executive orders cited thereto:

Alaska Railroad—Ex. Ord. No. 3861 of June 8, 1923, pursuant to act Mar. 12, 1914, ch. 37, 38 Stat. 305, and Ex. Ord. 11107 of Apr. 25, 1963. For transfer to Secretary of Transportation of administration of Alaska Railroad and functions authorized to be carried out by Secretary of the Interior pursuant to Ex. Ord. No. 11107, Apr. 25, 1963, 28 F.R. 4225, relative to operation of railroad, see section 6(i) of Pub. L. 89–670, Oct. 15, 1966, 80 Stat. 941, which was classified to section 1655(i) of former Title 49, Transportation, prior to repeal by Pub. L. 97–468, title VI, § 615(a)(4), Jan. 14, 1983, 96 Stat. 2579. Alaska Railroad transferred to State of Alaska on Jan. 5, 1985, pursuant to section 1203 of Title 45, Railroads, see section 615(a) of Pub. L. 97–468.

Alaska Road Commission—Act June 30, 1932, ch. 320, § 1, 47 Stat. 446—Transferred to Department of Commerce by act June 29, 1956, ch. 462, title I, § 107, 70 Stat. 377, and terminated by act June 25, 1959, Pub. L. 86–70, § 21(d)(7), 73 Stat. 146.

Bureau of Mines—Transferred to Department of Commerce by Ex. Ord. No. 4239 of June 4, 1925; retransferred to Department of the Interior by Ex. Ord. No. 6611 of Feb. 22, 1934.

Functions of Secretary of the Interior, Department of the Interior, and officers and components of Department of the Interior exercised by Bureau of Mines relating to fuel supply and demand analysis and data gathering, research and development relating to increased efficiency of production technology of solid fuel minerals other than research relating to mine health and safety and research relating to environmental and leasing consequences of solid fuel mining, and coal preparation and analysis transferred to Secretary of Energy by section 7152(d) of Title 42, The Public Health and Welfare. Subsequently, those functions transferred to, and vested in, Secretary of the Interior, by section 100 of Pub. L. 97–257, 96 Stat. 841, set out as a note under section 7152 of Title 42.

For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30, Mineral Lands and Mining.

Bureau of Reclamation—Act June 17, 1902, ch. 1093, 32 Stat. 388.

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(D), (3) of Title 42, The Public Health and Welfare, and to be exercised by Secretary through a separate Administration within Department of Energy.

Division of Territories and Island Possessions—Ex. Ord. No. 6726 of May 29, 1934. Functions of Division transferred to Office of Territories established July 28, 1950, pursuant to Secretarial Order No. 2577. Office of Territories ceased to exist on June 30, 1971, and its functions assigned to Deputy Assistant Secretary for Territorial Affairs in Office of the Assistant Secretary for Public Land Management by Secretarial Order No. 2942, eff. July 1, 1971. Subsequently, functions and responsibilities of Deputy Assistant Secretary were assumed by Office of Territorial Affairs, headed by a Director, established by Secretarial Order No. 2951 of Feb. 6, 1973. Functions and responsibilities of Office of Territorial Affairs transferred to Office of Assistant Secretary for Territorial and International Affairs established by Secretarial Order No. 3046 of Feb. 14, 1980, as amended May 14, 1980.

Fish and Wildlife Service—1939 Reorg. Plan No. II, § 4(e), (f), 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, § 3, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, Government Organization and Employees. Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, was succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, § 3, 70 Stat. 1119. See section 742b of Title 16, Conservation.

Geological Survey—Act Mar. 3, 1879, ch. 182, 20 Stat. 394.

Grazing—Act June 28, 1934, ch. 865, 48 Stat. 1269.

National Park Service—Act Aug. 25, 1916, ch. 408, 39 Stat. 535.

Office of Consumers' Counsel of National Bituminous Coal Commission—Abolished and functions transferred to office of Solicitor of Department of the Interior, by Reorg. Plan No. II of 1939, § 4(c), eff. July 1, 1939, set out in the Appendix to Title 5, Government Organization and Employees. Its functions, records, property, and personnel were subsequently transferred from Solicitor to Bituminous Coal Consumers' Counsel.

Petroleum conservation—Section 3 of Ex. Ord. No. 10752, eff. Feb. 12, 1958, 23 F.R. 973, superseded Ex. Ord. No. 6979, eff. Feb. 28, 1935, Ex. Ord. No. 7756, eff. Dec. 1, 1937, 2 F.R. 2664, and Ex. Ord. No. 9732, eff. June 3, 1946, 11 F.R. 5985, formerly classified as notes to this section.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of the Interior, see Parts 1, 2, and 10 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

REPORT TO CONGRESS ON AVAILABILITY OF FEDERAL PROGRAMS TO TERRITORIES OF UNITED STATES; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95–134, title IV, § 401, Oct. 15, 1977, 91 Stat. 1163, directed the Secretary of the Interior to submit to the Congress no later than Jan. 1, 1978, a report on Federal programs available to United States territories and authorized an appropriation of $50,000 for fiscal year 1978.

STUDY OF HEALTH AND SAFETY CONDITIONS IN METAL AND NONMETALLIC MINES

Pub. L. 87–300, Sept. 26, 1961, 75 Stat. 649, directed Secretary of the Interior to make a study on health and safety conditions in metal and nonmetallic mines, excluding coal and lignite mines, which study was to cover causes of injuries and health hazards, the relative effectiveness of voluntary versus mandatory reporting of accident statistics, the relative contribution to safety of inspection programs embodying right-of-entry and right-of-entry with enforcement authority, the effectiveness of health and safety training programs, the cost of an effective safety program, and the scope and adequacy of State mine safety laws, and to submit his findings, accompanied with recommendations for an effective safety program for metal and nonmetallic mines, excluding coal or lignite mines, to Congress not later then two years after Sept. 26, 1961.

SURVEYS, INVESTIGATIONS AND RESEARCH; APPROPRIATIONS

Pub. L. 85–743, Aug. 23, 1958, 72 Stat. 837, provided: "That the authority vested in the Secretary of the Interior, to perform surveys, investigations, and research in geology, biology, minerals and water resources, and mapping is hereby extended to include Antarctica and the Trust Territory of the Pacific Islands.

"SEC. 2. The Secretary of the Interior is authorized to compile maps of Antarctica from materials already available and from such additional material as may result from the several expeditions in support of the International Geophysical Year.

"SEC. 3. Nothing in this Act shall be construed to authorize the absorption or modification of, or change in any way, the responsibility of any other department or agency of the United States, including the performance of surveys, mapping, and compilation of maps.

"SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act."

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

EXECUTIVE ORDER NO. 9633

Ex. Ord. No. 9633, eff. Sept. 28, 1945, 10 F.R. 12305, which reserved and placed certain resources of the Continental Shelf under the control and jurisdiction of the Secretary of the Interior, was revoked by Ex. Ord. No. 10426, eff. Jan. 16, 1953, 18 F.R. 405.

EX. ORD. NO. 12906. COORDINATING GEOGRAPHIC DATA ACQUISITION AND ACCESS: THE NATIONAL SPATIAL DATA INFRASTRUCTURE

Ex. Ord. No. 12906, Apr. 11, 1994, 59 F.R. 17671, as amended by Ex. Ord. No. 13286, § 25, Feb. 28, 2003, 68 F.R. 10624, provided:

Geographic information is critical to promote economic development, improve our stewardship of natural resources, and protect the environment. Modern technology now permits improved acquisition, distribution, and utilization of geographic (or geospatial) data and mapping. The National Performance Review has recommended that the executive branch develop, in cooperation with State, local, and tribal governments,

and the private sector, a coordinated National Spatial Data Infrastructure to support public and private sector applications of geospatial data in such areas as transportation, community development, agriculture, emergency response, environmental management, and information technology.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America; and to implement the recommendations of the National Performance Review; to advance the goals of the National Information Infrastructure; and to avoid wasteful duplication of effort and promote effective and economical management of resources by Federal, State, local, and tribal governments, it is ordered as follows:

SECTION 1. DEFINITIONS. (a) ''National Spatial Data Infrastructure'' (''NSDI'') means the technology, policies, standards, and human resources necessary to acquire, process, store, distribute, and improve utilization of geospatial data.

(b) ''Geospatial data'' means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth. This information may be derived from, among other things, remote sensing, mapping, and surveying technologies. Statistical data may be included in this definition at the discretion of the collecting agency.

(c) The ''National Geospatial Data Clearinghouse'' means a distributed network of geospatial data producers, managers, and users linked electronically.

SEC. 2. EXECUTIVE BRANCH LEADERSHIP FOR DEVELOPMENT OF THE COORDINATED NATIONAL SPATIAL DATA INFRASTRUCTURE. (a) The Federal Geographic Data Committee (''FGDC''), established by the Office of Management and Budget (''OMB'') Circular No. A–16 (''Coordination of Surveying, Mapping, and Related Spatial Data Activities'') and chaired by the Secretary of the Department of the Interior (''Secretary'') or the Secretary's designee, shall coordinate the Federal Government's development of the NSDI.

(b) Each member agency shall ensure that its representative on the FGDC holds a policy-level position.

(c) Executive branch departments and agencies (''agencies'') that have an interest in the development of the NSDI are encouraged to join the FGDC.

(d) This Executive order is intended to strengthen and enhance the general policies described in OMB Circular No. A–16. Each agency shall meet its respective responsibilities under OMB Circular No. A–16.

(e) The FGDC shall seek to involve State, local, and tribal governments in the development and implementation of the initiatives contained in this order. The FGDC shall utilize the expertise of academia, the private sector, professional societies, and others as necessary to aid in the development and implementation of the objectives of this order.

SEC. 3. DEVELOPMENT OF A NATIONAL GEOSPATIAL DATA CLEARINGHOUSE. (a) *Establishing a National Geospatial Data Clearinghouse*. The Secretary, through the FGDC, and in consultation with, as appropriate, State, local, and tribal governments and other affected parties, shall take steps within 6 months of the date of this order, to establish an electronic National Geospatial Data Clearinghouse (''Clearinghouse'') for the NSDI. The Clearinghouse shall be compatible with the National Information Infrastructure to enable integration with that effort.

(b) *Standardized Documentation of Data*. Beginning 9 months from the date of this order, each agency shall document all new geospatial data it collects or produces, either directly or indirectly, using the standard under development by the FGDC, and make that standardized documentation electronically accessible to the Clearinghouse network. Within 1 year of the date of this order, agencies shall adopt a schedule, developed in consultation with the FGDC, for documenting, to the extent practicable, geospatial data previously collected or produced, either directly or indirectly, and making that data documentation electronically accessible to the Clearinghouse network.

(c) *Public Access to Geospatial Data*. Within 1 year of the date of this order, each agency shall adopt a plan, in consultation with the FGDC, establishing procedures to make geospatial data available to the public, to the extent permitted by law, current policies, and relevant OMB circulars, including OMB Circular No. A–130 (''Management of Federal Information Resources'') and any implementing bulletins.

(d) *Agency Utilization of the Clearinghouse*. Within 1 year of the date of this order, each agency shall adopt internal procedures to ensure that the agency accesses the Clearinghouse before it expends Federal funds to collect or produce new geospatial data, to determine whether the information has already been collected by others, or whether cooperative efforts to obtain the data are possible.

(e) *Funding*. The Department of the Interior shall provide funding for the Clearinghouse to cover the initial prototype testing, standards development, and monitoring of the performance of the Clearinghouse. Agencies shall continue to fund their respective programs that collect and produce geospatial data; such data is then to be made part of the Clearinghouse for wider accessibility.

SEC. 4. DATA STANDARDS ACTIVITIES. (a) *General FGDC Responsibility*. The FGDC shall develop standards for implementing the NSDI, in consultation and cooperation with State, local, and tribal governments, the private and academic sectors, and, to the extent feasible, the international community, consistent with OMB Circular No. A–119 (''Federal Participation in the Development and Use of Voluntary Standards''), and other applicable law and policies.

(b) *Standards for Which Agencies Have Specific Responsibilities*. Agencies assigned responsibilities for data categories by OMB Circular No. A–16 shall develop, through the FGDC, standards for those data categories, so as to ensure that the data produced by all agencies are compatible.

(c) *Other Standards*. The FGDC may from time to time identify and develop, through its member agencies, and to the extent permitted by law, other standards necessary to achieve the objectives of this order. The FGDC will promote the use of such standards and, as appropriate, such standards shall be submitted to the Department of Commerce for consideration as Federal Information Processing Standards. Those standards shall apply to geospatial data as defined in section 1 of this order.

(d) *Agency Adherence to Standards*. Federal agencies collecting or producing geospatial data, either directly or indirectly (e.g. through grants, partnerships, or contracts with other entities), shall ensure, prior to obligating funds for such activities, that data will be collected in a manner that meets all relevant standards adopted through the FGDC process.

SEC. 5. NATIONAL DIGITAL GEOSPATIAL DATA FRAMEWORK. In consultation with State, local, and tribal governments and within 9 months of the date of this order, the FGDC shall submit a plan and schedule to OMB for completing the initial implementation of a national digital geospatial data framework (''framework'') by January 2000 and for establishing a process of ongoing data maintenance. The framework shall include geospatial data that are significant, in the determination of the FGDC, to a broad variety of users within any geographic area or nationwide. At a minimum, the plan shall address how the initial transportation, hydrology, and boundary elements of the framework might be completed by January 1998 in order to support the decennial census of 2000.

SEC. 6. PARTNERSHIPS FOR DATA ACQUISITION. The Secretary, under the auspices of the FGDC, and within 9 months of the date of this order, shall develop, to the extent permitted by law, strategies for maximizing cooperative participatory efforts with State, local, and tribal governments, the private sector, and other nonfederal organizations to share costs and improve efficiencies of acquiring geospatial data consistent with this order.

SEC. 7. SCOPE. (a) For the purposes of this order, the term ''agency'' shall have the same meaning as the term ''Executive agency'' in 5 U.S.C. 105, and shall include the military departments and components of the Department of Defense.

(b) The following activities are exempt from compliance with this order:

(i) national security-related activities of the Department of Defense as determined by the Secretary of Defense;

(ii) national defense-related activities of the Department of Energy as determined by the Secretary of Energy;

(iii) intelligence activities as determined by the Director of Central Intelligence; and

(iv) the national security-related activities of the Department of Homeland Security as determined by the Secretary of Homeland Security.

(c) The NSDI may involve the mapping, charting, and geodesy activities of the Department of Defense relating to foreign areas, as determined by the Secretary of Defense.

(d) This order does not impose any requirements on tribal governments.

(e) Nothing in the order shall be construed to contravene the development of Federal Information Processing Standards and Guidelines adopted and promulgated under the provisions of section 111(d) of the Federal Property and Administrative Services Act of 1949 [former 40 U.S.C. 759(d)], as amended by the Computer Security Act of 1987 (Public Law 100–235), or any other United States law, regulation, or international agreement.

SEC. 8. JUDICIAL REVIEW. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified, or repealed by Submerged Lands Act, see section 1303 of this title.

## § 1457a. Authorization of appropriations for particular programs

### (a) Maximum amounts for specified years

Notwithstanding any other provision of law, there shall not be appropriated to the Secretary of the Interior for Department of the Interior programs as defined in subsection (e) of this section in excess of $4,095,404,000 for the fiscal year ending on September 30, 1981; in excess of $3,970,267,000 for the fiscal year ending on September 30, 1982; $4,680,223,000 for the fiscal year ending on September 30, 1983; and $4,797,281,000 for the fiscal year ending on September 30, 1984.

### (b) Ceilings on certain appropriations

It is the sense of the Congress that the appropriation targets for such fiscal years should be: not less than $275,000,000 to be appropriated annually pursuant to the provisions of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460z); not less than $30,000,000 to be appropriated annually pursuant to the provisions of the National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470); not less than $10,000,000 to be appropriated annually pursuant to the provisions of the Urban Park and Recreation Recovery Act of 1978 (92 Stat. 3538; 16 U.S.C. 2501, et seq.); not less than $105,000,000 to be appropriated annually to be used for the restoration and rehabilitation of units of the National Park System, as authorized by law; not less than $239,000,000 to be appropriated annually for the Office of Territorial and International Affairs (including amounts for the Trust Territory of the Pacific Islands); not less than $6,200,000 to be appropriated annually to carry out the provisions of title III of the Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445);[1] and not less than $100,000,000 to be appropriated annually pursuant to chapter 69 of title 31 including not less than $5,000,000 annually to carry out the purposes of section 6904 of title 31.

### (c) Additional limitations

Notwithstanding the limitation otherwise imposed by subsection (a) of this section—

(1) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in subsection (a) of this section by such amount as permanent and annual indefinite appropriations exceed the estimates for such appropriations as contained in ''The Budget of the United States Government, Fiscal Year 1982,'' as revised by the March 1981, publication of the Office of Management and Budget entitled ''Fiscal Year 1982 Budget Revisions'', when receipts available to be appropriated equal or exceed such appropriations, and

(2) the authorization for obligation and appropriations for the Department of the Interior may exceed the amount specified in subsection (a) of this section by such amounts as may be required for emergency firefighting and for increased pay costs authorized by law.

### (d) Omitted

### (e) Applicable programs

For the purposes of this section, the term ''Department of the Interior programs'' means—

(1) Alaska Native Fund amounts included in Bureau of Indian Affairs programs funded from Miscellaneous Trust Funds and Miscellaneous Permanent Appropriations accounts;

(2) Bureau of Land Management programs;

(3) United States Bureau of Mines programs;

(4) National Park Service programs other than the John F. Kennedy Center for the Performing Arts (including those programs formerly administered by the Heritage Conservation and Recreation Service as of October 1, 1980);

(5) Offices of the Solicitor and the Secretary;

(6) Office of Surface Mining Reclamation and Enforcement programs;

(7) Office of Territorial Affairs programs;

(8) United States Geological Survey programs; and

(9) Bureau of Reclamation (including those programs formerly administered by the Water and Power Resources Service).

(Pub. L. 97–35, title XIV, § 1401, Aug. 13, 1981, 95 Stat. 748, 749; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 460z), referred to in subsec. (b),

[1] See References in Text note below.

is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

The National Historic Preservation Act of 1966 (80 Stat. 915; 16 U.S.C. 470), referred to in subsec. (b), probably means Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, known as the National Historic Preservation Act, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

The Urban Park and Recreation Recovery Act of 1978 (92 Stat. 3538; 16 U.S.C. 2501 et seq.), referred to in subsec. (b), is title X of Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3538, which is classified generally to chapter 45 (§ 2501 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 16 and Tables.

The Surface Mining Control and Reclamation Act of 1977 (91 Stat. 445), referred to in subsec. (b), is Pub. L. 95–87, Aug. 3, 1977, 91 Stat. 445, as amended. Title III of the Surface Mining Control and Reclamation Act of 1977 was formerly classified generally to subchapter III (§ 1221 et seq.) of chapter 25 of Title 30, Mineral Lands and Mining, prior to the replacement of subchapter III by Pub. L. 98–409. For complete classification of this Act to the Code, see Short Title note set out under section 1201 of Title 30 and Tables.

CODIFICATION

In subsec. (b), ''chapter 69 of title 31'' and ''section 6904 of title 31'' substituted for ''the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601, et. seq.)'' and ''section 3 of said Act [31 U.S.C. 1603]'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Subsec. (d) of this section is set out as a note under section 1734 of this title.

CHANGE OF NAME

''United States Bureau of Mines'' substituted for ''Bureau of Mines'' in subsec. (e)(3) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30.

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.

CIRCULAR OF OFFICE OF MANAGEMENT AND BUDGET AND SIMILAR ORDERS OR DIRECTIVES INAPPLICABLE TO CERTAIN PUBLIC LAND ACTIVITIES WITHOUT AFFECTING OTHER AUTHORIZATIONS; CONGRESSIONAL FINDINGS

Pub. L. 98–540, § 3, Oct. 24, 1984, 98 Stat. 2718, provided that:

''(a) The Congress finds that—

''(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

''(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

''(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

''(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

''(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

''(6) management and regulation of natural resources on Federal lands are inherently Government functions and should be performed by Federal employees.

''(b)(1)(A) The provisions of Office of Management and Budget Circular A–76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

''(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A–76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefore by an Act of Congress.

''(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service, and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.''

## § 1457b. Use of cooperative agreements

For fiscal year 2010, and each fiscal year thereafter, the Secretary of the Interior may enter into cooperative agreements with a State or political subdivision (including any agency thereof), or any not-for-profit organization if the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Department of the Interior; and (2) all parties will contribute resources to the accomplishment of these objectives. At the discretion of the Secretary, such agreements shall not be subject to a competitive process.

(Pub. L. 111–88, div. A, title I, § 112, Oct. 30, 2009, 123 Stat. 2928.)

CODIFICATION

Section is from the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010.

## § 1458. Secretary to exercise certain powers over Territories

The Secretary of the Interior shall exercise all the powers and perform all the duties in relation to the Territories of the United States that were, prior to March 1, 1873, by law or by custom exercised and performed by the Secretary of State.

(R.S. § 442.)

CODIFICATION

R.S. § 442 derived from act Mar. 1, 1873, ch. 217, 17 Stat. 484.

Section was formerly classified to section 486 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

EX. ORD. NO. 10967. ADMINISTRATION OF PALMYRA ISLAND

Ex. Ord. No. 10967, eff. Oct. 10, 1961, 26 F.R. 9667, provided:

By virtue of the authority vested in me by section 48 of the Hawaii Omnibus Act (approved July 12, 1960; 74 Stat. 424; P.L. 86–624) [set out as a note preceding section 491 of Title 48, Territories and Insular Possessions] and section 301 of title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of the Interior shall be responsible for the civil administration of Palmyra Island and all executive and legislative authority necessary for that administration, and all judicial authority respecting Palmyra Island other than the authority contained in the Act of June 15, 1950 (64 Stat. 217), as amended (48 U.S.C. 644a), shall be vested in the Secretary of the Interior.

SEC. 2. The executive, legislative, and judicial authority provided for in section 1 of this order (1) may be exercised through such agency or agencies of the Department of the Interior, or through such officers or employees under the jurisdiction of the Secretary of the Interior, as the Secretary may direct or authorize, (2) may be exercised through such agency or agencies, other than or not in the Department of the Interior, or through such officers or employees of the United States not under the administrative supervision of the Secretary, for such time and under such conditions as may be agreed upon between the Secretary and such agency, agencies, officers or employees of the United States, and (3) shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

SEC. 3. The Secretary of the Interior may confer upon the United States District Court for the District of Hawaii such jurisdiction, in addition to that contained in the Act of June 15, 1950 [48 U.S.C. 644a], and such judicial functions and duties, as he may deem appropriate for the civil administration of Palmyra Island.

SEC. 4. The foregoing provisions of this order shall continue in force until the Congress shall provide for the civil administration of Palmyra Island or until such earlier time as the President may specify.

SEC. 5. As used herein, the term ''Palmyra Island'' means the place of that name, consisting of a group of islets located in the Pacific Ocean approximately at Latitude 5°52″ North and Longitude 162°06″ West, and includes the territorial waters of that place and includes also the reefs surrounding that place or any part thereof.

SEC. 6. To the extent that any prior Executive order or proclamation is inconsistent with the provisions of this order, this order shall control.

SEC. 7. Nothing in this order shall be deemed to reduce, limit, or otherwise modify the authority or responsibility of the Attorney General to represent the legal interests of the United States in civil or criminal cases arising under the provisions of the Act of June 15, 1950 [48 U.S.C. 644a], or under the provisions of section 3 of this order.

JOHN F. KENNEDY.

## § 1459. Expenditures of department

The Secretary of the Interior shall sign all requisitions for the advance or payment of money, out of the Treasury, upon estimates or accounts for expenditures upon business assigned by law to his department; subject, however, to adjustment and control by the Government Accountability Office.

(R.S. § 444; June 10, 1921, ch. 18, title III, § 304, 42 Stat. 24; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

R.S. § 444 derived from act Mar. 3, 1849, ch. 108, § 2, 9 Stat. 395.

Section was formerly classified to section 487 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

''Government Accountability Office'' substituted in text for ''General Accounting Office'' pursuant to section 8(b) of Pub. L. 108–271, set out as a note under section 702 of Title 31, Money and Finance, which redesignated the General Accounting Office and any references thereto as the Government Accountability Office. Previously, ''General Accounting Office'' substituted in text for ''proper accounting officers of Department of the Treasury'' pursuant to act June 10, 1921, which transferred all powers and duties of Comptroller, six auditors, and certain other employees of the Treasury to General Accounting Office. See section 701 et seq. of Title 31.

## § 1460. Copies of records, documents, etc.; charges; disposition of receipts

The Secretary of the Interior, or any of the officers of that Department may, when not prejudicial to the interests of the Government, furnish authenticated or unauthenticated copies of any official books, records, papers, documents, maps, plats, or diagrams within his custody and may charge therefore a sum equal to the cost of production thereof, plus the cost of administrative services involved in handling the records for such purpose, as these costs may be determined by the Secretary of the Interior or such subordinate officials or employees as he may designate, and in addition the sum of 25 cents for each certificate of verification and the seal attached to authenticated copies. There shall be no charge for the making or verification of copies required for official use by the officers of any branch of the Government. Only a charge of 25 cents shall be made for furnishing authenticated copies of any rules, regulations, or instructions printed by the government for gratuitous distribution. The money received for copies under this section shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of furnishing copies as herein authorized.

(Aug. 24, 1912, ch. 370, § 1, 37 Stat. 497; July 30, 1947, ch. 354, § 1, 61 Stat. 521; Aug. 3, 1950, ch. 526, 64 Stat. 402.)

CODIFICATION

Section was formerly classified to section 488 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1950—Act Aug. 3, 1950, included within the price of copies of records furnished by the Department the cost of the administrative expenses involved as well as the cost of production.

1947—Act July 30, 1947, omitted specific charges for copies of books, records, etc., inserted provision that charge for copies would amount to cost of production as determined by the Secretary of the Interior or his designee, and inserted provision relating to deposit of receipts.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 1461. Rules and regulations governing inspection and copying

Nothing in sections 1460 to 1463 of this title shall be construed to limit or restrict in any manner the authority of the Secretary of the Interior to prescribe such rules and regulations as he may deem proper governing the inspection of the records of said department and its various bureaus by the general public, and any person having any particular interest in any of such records may be permitted to take copies of such records under such rules and regulations as may be prescribed by the Secretary of the Interior.

(Aug. 24, 1912, ch. 370, § 2, 37 Stat. 498.)

CODIFICATION

Section was formerly classified to section 489 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 1462. Attestation of copies by official seal

All officers who furnish authenticated copies under section 1460 of this title shall attest their authentication by the use of an official seal, which is authorized for that purpose.

(Aug. 24, 1912, ch. 370, § 4, 37 Stat. 498.)

CODIFICATION

Section was formerly classified to section 491 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1463. Disposition of receipts

All sums received under the provisions of section 1460 of this title shall be deposited in the Treasury to the credit of miscellaneous receipts.

(Aug. 24, 1912, ch. 370, § 6, 37 Stat. 498.)

CODIFICATION

Section was formerly classified to section 492 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1464. Agents or attorneys representing claimants before department

The Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud in any manner, deceive, mislead, or threaten any claimant, or prospective claimant, by word, circular, letter, or by advertisement.

(July 4, 1884, ch. 181, § 5, 23 Stat. 101.)

CODIFICATION

Section was formerly classified to section 493 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 1465. Annual reports of department and its bureaus

The annual reports of the department and of all its bureaus and establishments, including the Bureau of Reclamation, shall not exceed a total of one thousand two hundred and fifty pages.

(May 24, 1922, ch. 199, 42 Stat. 554; Jan. 24, 1923, ch. 42, 42 Stat. 1176; June 5, 1924, ch. 264, 43 Stat. 392; Mar. 3, 1925, ch. 462, 43 Stat. 1143.)

CODIFICATION

Section was formerly classified to section 495 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1466. Administration of oaths, affirmations, etc., by employees of Division of Investigations; force and effect

Special agents and such other employees of the Division of Investigations, Department of the Interior of the United States, as are designated by the Secretary of the Interior for that purpose, are authorized and empowered to administer to or take from any person an oath, af-

firmation, affidavit, or deposition whenever necessary in the performance of their official duties. Any such oath, affirmation, affidavit, or deposition administered or taken by or before a special agent or such other employee of the Division of Investigations, Department of the Interior, designated by the Secretary of the Interior, when certified under his hand, shall have like force and effect as if administered or taken before an officer having a seal.

(Oct. 14, 1940, ch. 878, 54 Stat. 1175.)

CODIFICATION

Section was formerly classified to section 498 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

### § 1467. Working capital fund; establishment; uses; reimbursement

There is established a working capital fund of $300,000, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) communication services; (3) a central supply service for stationery, supplies, equipment, blank forms, and miscellaneous materials, for which adequate stocks may be maintained to meet in whole or in part requirements of the bureaus and offices of the Department in the city of Washington and elsewhere; (4) a central library service; (5) health services; and (6) such other similar service functions as the Secretary determines may be performed more advantageously on a reimbursable basis. Said fund shall be reimbursed from available funds of bureaus, offices, and agencies for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment.

(Sept. 6, 1950, Ch. 896, ch. VII, title I, § 101, 64 Stat. 680.)

CODIFICATION

Section was formerly classified to section 502 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1467a. Working capital fund; credit card refunds or rebates

Refunds or rebates received on an on-going basis from a credit card services provider under the Department of the Interior's charge card programs, on and after October 11, 2000, may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 43 U.S.C. 1467 and used to fund management initiatives of general benefit to the Department of the Interior's bureaus and offices as determined by the Secretary or his designee.

(Pub. L. 106–291, title I, § 113, Oct. 11, 2000, 114 Stat. 943.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 118], Nov. 29, 1999, 113 Stat. 1535, 1501A–159.

### § 1468. Working capital fund; availability for uniforms or allowances therefor

The working capital fund, established by section 1467 of this title, shall on and after June 13, 1956 be available for uniforms or allowances therefor, as authorized by section 5901 of title 5.

(June 13, 1956, ch. 380, title I, § 101, 70 Stat. 266.)

CODIFICATION

Section was formerly classified to section 503 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

### § 1469. Employment and compensation of personnel to perform work occasioned by emergencies

Notwithstanding any other provision of law, persons may be employed or otherwise contracted with by the Secretary of the Interior to perform work occasioned by emergencies such as fire, flood, storm, or any other unavoidable cause and may be compensated at regular rates of pay without regard to Sundays, Federal holidays, and the regular workweek.

(Pub. L. 94–165, title I, § 108, Dec. 23, 1975, 89 Stat. 990.)

### § 1470. Appropriations; availability for certain administrative expenses

Appropriations for field work of the Department of the Interior shall be available for the hire, with or without personal services, of boats, work animals, and animal-drawn and motor-propelled vehicles and equipment.

(June 25, 1946, ch. 472, § 1, 60 Stat. 306.)

CODIFICATION

Section was formerly classified to section 692 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

### § 1471. Appropriations; availability for payment of property damages

Appropriations for contingent expenses of the Department of the Interior shall be available, to the extent specified therein, for the payment of damages to private property (not to exceed $500 in any one case) caused by the negligent operation of motor vehicles under such appropriations.

(June 25, 1946, ch. 472, § 2, 60 Stat. 306.)

CODIFICATION

Section was formerly classified to section 693 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

### § 1471a. Availability of appropriations for emergency repair or replacement of damaged or destroyed facilities and equipment

Appropriations in this title[1] or appropriations made under this title[1] in subsequent Energy and Water Development Appropriations Acts shall on and after October 2, 1992, be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

(Pub. L. 102–377, title II, § 201, Oct. 2, 1992, 106 Stat. 1331.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1327. For complete classification of title II to Code, see Tables.

### § 1471b. Availability of appropriations for suppression and emergency prevention of forest and range fires

On and after October 2, 1992, the Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title[1] or appropriations made under this title[1] in subsequent Energy and Water Development Appropriations Acts, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

(Pub. L. 102–377, title II, § 202, Oct. 2, 1992, 106 Stat. 1331.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1327. For complete classification of title II to Code, see Tables.

### § 1471c. Availability of appropriations for operation of warehouses, garages, shops, and similar facilities

Appropriations in this title[1] or appropriations made under this title[1] in subsequent Energy and Water Development Appropriations Acts shall on and after October 2, 1992, be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31: *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

(Pub. L. 102–377, title II, § 203, Oct. 2, 1992, 106 Stat. 1331.)

REFERENCES IN TEXT

This title, referred to in text, is title II, Department of the Interior, of the Energy and Water Development Appropriations Act, 1993, of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1327. For complete classification of title II to Code, see Tables.

### § 1471c–1. Availability of appropriations for operation of warehouses, garages, shops, and similar facilities

Appropriations made to the Department of the Interior shall on and after December 8, 2004, be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

(Pub. L. 108–447, div. E, title I, § 103, Dec. 8, 2004, 118 Stat. 3063.)

CODIFICATION

Section is from title I, Department of the Interior, of the Department of the Interior and Related Agencies Appropriations Act, 2005, Pub. L. 108–447, div. E, Dec. 8, 2004, 118 Stat. 3039.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–108, title I, § 103, Nov. 10, 2003, 117 Stat. 1265.

Pub. L. 108–7, div. F, title I, § 103, Feb. 20, 2003, 117 Stat. 238.

Pub. L. 107–63, title I, § 103, Nov. 5, 2001, 115 Stat. 437.

Pub. L. 106–291, title I, § 103, Oct. 11, 2000, 114 Stat. 941.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 103], Nov. 29, 1999, 113 Stat. 1535, 1501A–145.

Pub. L. 105–277, div. A, § 101(e) [title I, § 103], Oct. 21, 1998, 112 Stat. 2681–231, 2681–253.

Pub. L. 105–83, title I, § 103, Nov. 14, 1997, 111 Stat. 1561.

Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 103], Sept. 30, 1996, 110 Stat. 3009–181, 3009–199.

Pub. L. 104–134, title I, § 101(c) [title I, § 103], Apr. 26, 1996, 110 Stat. 1321–156, 1321–176; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, § 103, Sept. 30, 1994, 108 Stat. 2518.

Pub. L. 103–138, title I, § 103, Nov. 11, 1993, 107 Stat. 1398.

Pub. L. 102–381, title I, § 103, Oct. 5, 1992, 106 Stat. 1395.

Pub. L. 102–154, title I, § 103, Nov. 13, 1991, 105 Stat. 1011.

Pub. L. 101–512, title I, § 103, Nov. 5, 1990, 104 Stat. 1935.

Pub. L. 101–121, title I, § 103, Oct. 23, 1989, 103 Stat. 719.

Pub. L. 100–446, title I, § 103, Sept. 27, 1988, 102 Stat. 1800.

Pub. L. 100–202, § 101(g) [title I, § 103], Dec. 22, 1987, 101 Stat. 1329–213, 1329–234.

Pub. L. 99–500, § 101(h) [title I, § 103], Oct. 18, 1986, 100 Stat. 1783–242, 1783–260, and Pub. L. 99–591, § 101(h) [title I, § 103], Oct. 30, 1986, 100 Stat. 3341–242, 3341–260.

Pub. L. 99–190, § 101(d) [title I, § 103], Dec. 19, 1985, 99 Stat. 1224, 1241.

[1] See References in Text note below.

[1] See References in Text note below.

[1] See References in Text note below.

Pub. L. 98–473, title I, § 101(c) [title I, § 103], Oct. 12, 1984, 98 Stat. 1837, 1853.
Pub. L. 98–146, title I, § 103, Nov. 4, 1983, 97 Stat. 934.
Pub. L. 97–394, title I, § 103, Dec. 30, 1982, 96 Stat. 1981.
Pub. L. 97–100, title I, § 103, Dec. 23, 1981, 95 Stat. 1403.
Pub. L. 96–514, title I, § 103, Dec. 12, 1980, 94 Stat. 2971.
Pub. L. 96–126, title I, § 103, Nov. 27, 1979, 93 Stat. 967.
Pub. L. 95–465, title I, § 103, Oct. 17, 1978, 92 Stat. 1290.
Pub. L. 95–74, title I, § 103, July 26, 1977, 91 Stat. 296.
Pub. L. 94–373, title I, § 103, July 31, 1976, 90 Stat. 1054.
Pub. L. 94–165, title I, § 103, Dec. 23, 1975, 89 Stat. 990.
Pub. L. 93–404, title I, § 103, Aug. 31, 1974, 88 Stat. 814.
Pub. L. 93–120, title I, § 103, Oct. 4, 1973, 87 Stat. 440.
Pub. L. 92–369, title I, § 103, Aug. 10, 1972, 86 Stat. 518.
Pub. L. 92–76, title I, § 103, Aug. 10, 1971, 85 Stat. 239.
Pub. L. 91–361, title I, § 103, July 31, 1970, 84 Stat. 680.
Pub. L. 91–98, title I, § 103, Oct. 29, 1969, 83 Stat. 159.
Pub. L. 90–425, title I, § 103, July 26, 1968, 82 Stat. 437.
Pub. L. 90–28, title I, § 103, June 24, 1967, 81 Stat. 70.
Pub. L. 89–435, title I, § 103, May 31, 1966, 80 Stat. 182.
Pub. L. 89–52, title I, § 103, June 28, 1965, 79 Stat. 186.
Pub. L. 88–356, title I, § 103, July 7, 1964, 78 Stat. 284.
Pub. L. 88–79, title I, § 103, July 26, 1963, 77 Stat. 108.
Pub. L. 87–578, title I, § 103, Aug. 9, 1962, 76 Stat. 346.
Pub. L. 87–122, title I, § 103, Aug. 3, 1961, 75 Stat. 256.
Pub. L. 86–455, title I, § 103, May 13, 1960, 74 Stat. 114.
Pub. L. 86–60, title I, § 103, June 23, 1959, 73 Stat. 102.
Pub. L. 85–439, title I, § 103, June 4, 1958, 72 Stat. 165.
Pub. L. 85–77, title I, § 103, July 1, 1957, 71 Stat. 267.
June 13, 1956, ch. 380, title I, § 103, 70 Stat. 266.
June 16, 1955, ch. 147, title I, § 104, 69 Stat. 151.
July 1, 1954, ch. 446, title I, § 105, 68 Stat. 374.
July 31, 1953, ch. 298, title I, § 105, 67 Stat. 275.
July 9, 1952, ch. 597, title I, § 106, 66 Stat. 460.
Aug. 31, 1951, ch. 375, title I, § 106, 65 Stat. 265.
Sept. 6, 1950, ch. 896, title I, § 107, 64 Stat. 696.

### § 1471d. Availability of appropriations for transportation, reprint, telephone, and library membership expenses

Appropriations in this title[1] or appropriations made under this title[1] in subsequent Energy and Water Development Appropriations Acts shall on and after October 2, 1992, be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

(Pub. L. 102–377, title II, § 204, Oct. 2, 1992, 106 Stat. 1332.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 102–377, Oct. 2, 1992, 106 Stat. 1327. For complete classification of title II to Code, see Tables.

### § 1471e. Reimbursement of employee license costs and certification fees

Notwithstanding any other provision of law, in fiscal year 1993 and thereafter, appropriations or funds available to the Department of the Interior or the Forest Service, Department of Agriculture, may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their employment and that are necessary to comply with State or Federal laws, regulations, or requirements.

[1] See References in Text note below.

(Pub. L. 102–381, title III, § 317, Oct. 5, 1992, 106 Stat. 1417.)

### § 1471f. Availability of appropriations for incremental funding of research work orders for cooperative agreements

Notwithstanding any other provision of law, in fiscal year 1995 and thereafter, appropriations made to the Department of the Interior in this title[1] or provided from other Federal agencies through reimbursable or other agreements pursuant to sections 1535 and 1536 of title 31 may be used to fund incrementally research work orders for cooperative agreements with colleges and universities, State agencies, and nonprofit organizations that overlap fiscal years: *Provided*, That such cooperative agreements shall contain a statement that ''the obligation of funds for future incremental payments shall be subject to the availability of funds.''

(Pub. L. 103–332, title I, § 115, Sept. 30, 1994, 108 Stat. 2519; Pub. L. 105–83, title I, § 116, Nov. 14, 1997, 111 Stat. 1563.)

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 103–332, Sept. 30, 1994, 108 Stat. 2499, known as the Department of the Interior and Related Agencies Appropriations Act, 1995. For complete classification of this Act to the Code, see Tables.

CODIFICATION

''Sections 1535 and 1536 of title 31'' was substituted in text for ''the Economy Act'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1997—Pub. L. 105–83 inserted ''or provided from other Federal agencies through reimbursable or other agreements pursuant to sections 1535 and 1536 of title 31'' after ''in this title''.

### § 1471g. Availability of appropriations to support Memorial Day and Fourth of July ceremonies and activities in National Capital Region

During the current fiscal year and on and after September 30, 1996, funds appropriated under this paragraph may be made available to the Department of the Interior to support the Memorial Day and Fourth of July ceremonies and activities in the National Capital Region.

(Pub. L. 104–208, div. A, title I, § 101(b) [title II], Sept. 30, 1996, 110 Stat. 3009–71, 3009–74.)

REFERENCES IN TEXT

This paragraph, referred to in text, contained additional provisions providing appropriations for expenses, not otherwise provided for, necessary for the operation and maintenance of the Army which are not classified to the Code.

### § 1471h. Availability of appropriations for uniforms or allowances

Appropriations available to the Department of the Interior for salaries and expenses shall on and after December 8, 2004, be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

[1] See References in Text note below.

(Pub. L. 108–447, div. E, title I, § 105, Dec. 8, 2004, 118 Stat. 3063.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–108, title I, § 105, Nov. 10, 2003, 117 Stat. 1266.

Pub. L. 108–7, div. F, title I, § 105, Feb. 20, 2003, 117 Stat. 238.

Pub. L. 107–63, title I, § 105, Nov. 5, 2001, 115 Stat. 437.

Pub. L. 106–291, title I, § 105, Oct. 11, 2000, 114 Stat. 942.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 105], Nov. 29, 1999, 113 Stat. 1535, 1501A–156.

Pub. L. 105–277, div. A, § 101(e) [title I, § 105], Oct. 21, 1998, 112 Stat. 2681–231, 2681–253.

Pub. L. 105–83, title I, § 105, Nov. 14, 1997, 111 Stat. 1561.

Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 105], Sept. 30, 1996, 110 Stat. 3009–181, 3009–199.

Pub. L. 104–134, title I, § 101(c) [title I, § 105], Apr. 26, 1996, 110 Stat. 1321–156, 1321–176; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, § 105, Sept. 30, 1994, 108 Stat. 2518.

Pub. L. 103–138, title I, § 105, Nov. 11, 1993, 107 Stat. 1398.

Pub. L. 102–381, title I, § 105, Oct. 5, 1992, 106 Stat. 1396.

Pub. L. 102–154, title I, § 105, Nov. 13, 1991, 105 Stat. 1011.

Pub. L. 101–512, title I, § 105, Nov. 5, 1990, 104 Stat. 1935.

Pub. L. 101–121, title I, § 105, Oct. 23, 1989, 103 Stat. 720.

Pub. L. 100–446, title I, § 105, Sept. 27, 1988, 102 Stat. 1800.

Pub. L. 100–202, § 101(g) [title I, § 105], Dec. 22, 1987, 101 Stat. 1329–213, 1329–234.

Pub. L. 99–500, § 101(h) [title I, § 105], Oct. 18, 1986, 100 Stat. 1783–242, 1783–261, and Pub. L. 99–591, § 101(h) [title I, § 105], Oct. 30, 1986, 100 Stat. 3341–242, 3341–261.

Pub. L. 99–190, § 101(d) [title I, § 105], Dec. 19, 1985, 99 Stat. 1224, 1241.

Pub. L. 98–473, title I, § 101(c) [title I, § 105], Oct. 12, 1984, 98 Stat. 1837, 1853.

Pub. L. 98–146, title I, § 105, Nov. 4, 1983, 97 Stat. 934.

Pub. L. 97–394, title I, § 105, Dec. 30, 1982, 96 Stat. 1981.

Pub. L. 97–100, title I, § 105, Dec. 23, 1981, 95 Stat. 1404.

Pub. L. 96–514, title I, § 105, Dec. 12, 1980, 94 Stat. 2971.

Pub. L. 96–126, title I, § 105, Nov. 27, 1979, 93 Stat. 967.

Pub. L. 95–465, title I, § 105, Oct. 17, 1978, 92 Stat. 1291.

Pub. L. 95–74, title I, § 105, July 26, 1977, 91 Stat. 297.

Pub. L. 94–373, title I, § 105, July 31, 1976, 90 Stat. 1054.

Pub. L. 94–165, title I, § 105, Dec. 23, 1975, 89 Stat. 990.

Pub. L. 93–404, title I, § 105, Aug. 31, 1974, 88 Stat. 814.

Pub. L. 93–120, title I, § 105, Oct. 4, 1973, 87 Stat. 440.

Pub. L. 92–369, title I, § 105, Aug. 10, 1972, 86 Stat. 518.

Pub. L. 92–76, title I, § 105, Aug. 10, 1971, 85 Stat. 239.

Pub. L. 91–361, title I, § 105, July 31, 1970, 84 Stat. 681.

Pub. L. 91–98, title I, § 105, Oct. 29, 1969, 83 Stat. 159.

Pub. L. 90–425, title I, § 105, July 26, 1968, 82 Stat. 438.

Pub. L. 90–28, title I, § 105, June 24, 1967, 81 Stat. 70.

Pub. L. 89–435, title I, § 105, May 31, 1966, 80 Stat. 182.

Pub. L. 89–52, title I, § 105, June 28, 1965, 79 Stat. 186.

Pub. L. 88–356, title I, § 105, July 7, 1964, 78 Stat. 285.

Pub. L. 88–79, title I, § 105, July 26, 1963, 77 Stat. 108.

Pub. L. 87–578, title I, § 105, Aug. 9, 1962, 76 Stat. 346.

Pub. L. 87–122, title I, § 105, Aug. 3, 1961, 75 Stat. 257.

Pub. L. 86–455, title I, § 105, May 13, 1960, 74 Stat. 114.

Pub. L. 86–60, title I, § 105, June 23, 1959, 73 Stat. 103.

Pub. L. 85–439, title I, § 105, June 4, 1958, 72 Stat. 165.

Pub. L. 85–77, title I, § 105, July 1, 1957, 71 Stat. 267.

June 13, 1956, ch. 380, title I, § 105, 70 Stat. 267.

### § 1471i. Availability of appropriations for services or rentals

Annual appropriations made to the Department of the Interior shall on and after December 8, 2004, be available for obligation in connection with contracts issued for services or rentals for periods not in excess of 12 months beginning at any time during the fiscal year.

(Pub. L. 108–447, div. E, title I, § 106, Dec. 8, 2004, 118 Stat. 3063.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–108, title I, § 106, Nov. 10, 2003, 117 Stat. 1266.

Pub. L. 108–7, div. F, title I, § 106, Feb. 20, 2003, 117 Stat. 238.

Pub. L. 107–63, title I, § 106, Nov. 5, 2001, 115 Stat. 437.

Pub. L. 106–291, title I, § 106, Oct. 11, 2000, 114 Stat. 942.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 106], Nov. 29, 1999, 113 Stat. 1535, 1501A–156.

Pub. L. 105–277, div. A, § 101(e) [title I, § 106], Oct. 21, 1998, 112 Stat. 2681–231, 2681–253.

Pub. L. 105–83, title I, § 106, Nov. 14, 1997, 111 Stat. 1561.

Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 106], Sept. 30, 1996, 110 Stat. 3009–181, 3009–199.

Pub. L. 104–134, title I, § 101(c) [title I, § 106], Apr. 26, 1996, 110 Stat. 1321–156, 1321–177; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, § 106, Sept. 30, 1994, 108 Stat. 2518.

Pub. L. 103–138, title I, § 106, Nov. 11, 1993, 107 Stat. 1398.

Pub. L. 102–381, title I, § 106, Oct. 5, 1992, 106 Stat. 1396.

Pub. L. 102–154, title I, § 106, Nov. 13, 1991, 105 Stat. 1011.

Pub. L. 101–512, title I, § 106, Nov. 5, 1990, 104 Stat. 1936.

Pub. L. 101–121, title I, § 106, Oct. 23, 1989, 103 Stat. 720.

Pub. L. 100–446, title I, § 106, Sept. 27, 1988, 102 Stat. 1800.

Pub. L. 100–202, § 101(g) [title I, § 106], Dec. 22, 1987, 101 Stat. 1329–213, 1329–234.

Pub. L. 99–500, § 101(h) [title I, § 106], Oct. 18, 1986, 100 Stat. 1783–242, 1783–261, and Pub. L. 99–591, § 101(h) [title I, § 106], Oct. 30, 1986, 100 Stat. 3341–242, 3341–261.

Pub. L. 99–190, § 101(d) [title I, § 106], Dec. 19, 1985, 99 Stat. 1224, 1241.

Pub. L. 98–473, title I, § 101(c) [title I, § 106], Oct. 12, 1984, 98 Stat. 1837, 1853.

Pub. L. 98–146, title I, § 106, Nov. 4, 1983, 97 Stat. 934.

Pub. L. 97–394, title I, § 106, Dec. 30, 1982, 96 Stat. 1982.

Pub. L. 97–100, title I, § 106, Dec. 23, 1981, 95 Stat. 1404.

Pub. L. 96–514, title I, § 106, Dec. 12, 1980, 94 Stat. 2971.

Pub. L. 96–126, title I, § 107, Nov. 27, 1979, 93 Stat. 967.

Pub. L. 95–465, title I, § 107, Oct. 17, 1978, 92 Stat. 1291.

Pub. L. 95–74, title I, § 107, July 26, 1977, 91 Stat. 297.

Pub. L. 94–373, title I, § 107, July 31, 1976, 90 Stat. 1054.

Pub. L. 94–165, title I, § 107, Dec. 23, 1975, 89 Stat. 990.

### § 1472. Bureau of Reclamation working capital fund

#### (a) Establishment; management of support activities of Bureau

Within 30 days after November 1, 1985, there shall be established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Bureau of Reclamation (hereafter referred to as the ''Bureau''), Department of the Interior. The fund shall be available without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, and services in support of Bureau programs, and, as authorized by law, to agencies of the Federal Government and others. Such expenses may include the acquisition, replacement, and operation of a central computer and related automatic data

processing equipment; engineering services; payroll and other management services; acquisition and replacement of equipment and facilities, including the purchase, lease, or rent of motor vehicles and aircraft within any limitations set forth in appropriations made to carry out the functions of the Bureau and such other activities as may be approved by the Director, Office of Management and Budget.

**(b) Fund credits; transfers to fund**

The fund shall be credited with appropriations made for the purpose of providing or increasing capital. There are authorized to be transferred to the fund (at fair and reasonable values at the time of transfer) the inventories, equipment, receivables, and other assets, less the liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior.

**(c) Use of funds to provide materials, supplies, equipment, work, and services**

The fund shall be credited with appropriations and other funds of the Bureau, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law. Such payments may be made in advance or upon performance.

**(d) Charges to users**

Charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services (including such items as depreciation of equipment and accrued annual leave).

**(e) Authorization of appropriations**

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

**(f) Unnecessary funds covered into miscellaneous receipts of Treasury**

Funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

(Pub. L. 99–141, title II, § 205, Nov. 1, 1985, 99 Stat. 571.)

### § 1473. Acceptance of contributions from private and public sources by Mineral Management Service

In fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account, including, in fiscal years 2010 through 2013, contributions of money and services to conduct work in support of the orderly exploration and development of Outer Continental Shelf resources, including but not limited to, preparation of environmental documents such as impact statements and assessments, studies, and related research.

(Pub. L. 99–500, § 101(h) [title I, § 100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–253, and Pub. L. 99–591, § 101(h) [title I, § 100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–253; Pub. L. 110–161, div. F, title I, § 121, Dec. 26, 2007, 121 Stat. 2121; Pub. L. 111–8, div. E, title I, § 111, Mar. 11, 2009, 123 Stat. 723; Pub. L. 111–88, div. A, title I, § 111, Oct. 30, 2009, 123 Stat. 2928.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2009—Pub. L. 111–88, which directed that title 43 U.S.C. 1473 be amended by substituting ''in fiscal years 2010 through 2013'' for ''in fiscal years 2008 and 2009 only'', was executed to section 101(h) [title I, § 100] of Pub. L. 99–591, which is classified to this section, to reflect the probable intent of Congress.

Pub. L. 111–8, which directed that title 43 U.S.C. 1473 be amended by substituting ''in fiscal years 2008 and 2009 only'' for ''in fiscal year 2008 only'', was executed to section 101(h) [title I, § 100] of Pub. L. 99–591, which is classified to this section, to reflect the probable intent of Congress.

2007—Pub. L. 110–161 which directed that title 43 U.S.C. 1473 be amended by inserting before period at end of section '', including, in fiscal year 2008 only, contributions of money and services to conduct work in support of the orderly exploration and development of Outer Continental Shelf resources, including but not limited to, preparation of environmental documents such as impact statements and assessments, studies, and related research'', was executed to section 101(h) [title I, § 100] of Pub. L. 99–591, which is classified to this section, to reflect the probable intent of Congress.

### § 1473a. Acceptance of contributions by Secretary; cooperation with prosecution of projects

The Secretary is authorized to accept lands, buildings, equipment, other contributions and, before, on, and after November 13, 1991, fees to be deposited in the contributed funds account from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies.

(Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1002.)

CODIFICATION

In text, ''before, on, and after November 13, 1991,'' substituted for ''heretofore and hereafter''.

SIMILAR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–168; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2509.

Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1389.

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1386.

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1927.

### § 1473b. Awards for contributions to Department of the Interior programs

Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, any appropriations or funds available to the Department of the Interior in this Act may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Department of the Interior programs.

(Pub. L. 102–154, title I, § 115, Nov. 13, 1991, 105 Stat. 1012.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 102–154, Nov. 13, 1991, 105 Stat. 990, known as the Department of the Interior and Related Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 101–512, title I, § 117, Nov. 5, 1990, 104 Stat. 1937.

### § 1473c. Payment of costs incidental to services contributed by volunteers

Appropriations under this title[1] in fiscal year 1992 and thereafter, may be made available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work for units of the Department of the Interior.

(Pub. L. 102–154, title I, § 116, Nov. 13, 1991, 105 Stat. 1012.)

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 102–154, Nov. 13, 1991, 105 Stat. 990, known as the Department of the Interior and Related Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 101–512, title I, § 118, Nov. 5, 1990, 104 Stat. 1937.

### § 1473d. Insurance costs covering vehicles, aircraft, and boats operated by Department of the Interior in Canada and Mexico

Notwithstanding any other provisions of law, in fiscal year 1992 and thereafter, appropriations in this title[1] shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

(Pub. L. 102–154, title I, § 107, Nov. 13, 1991, 105 Stat. 1012.)

REFERENCES IN TEXT

This title, referred to in text, is title I of Pub. L. 102–154, Nov. 13, 1991, 105 Stat. 990, known as the Department of the Interior and Related Agencies Appropriations Act, 1992. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 101–512, title I, § 108, Nov. 5, 1990, 104 Stat. 1936.

Pub. L. 101–121, title I, § 108, Oct. 23, 1989, 103 Stat. 720.

Pub. L. 100–446, title I, § 108, Sept. 27, 1988, 102 Stat. 1801.

Pub. L. 100–202, § 101(g) [title I, § 109], Dec. 22, 1987, 101 Stat. 1329–213, 1329–234.

Pub. L. 99–500, § 101(h) [title I, § 109], Oct. 18, 1986, 100 Stat. 1783–242, 1783–261, and Pub. L. 99–591, § 101(h) [title I, § 109], Oct. 30, 1986, 100 Stat. 3341–242, 3341–261.

Pub. L. 99–190, § 101(d) [title I, § 109], Dec. 19, 1985, 99 Stat. 1224, 1243.

Pub. L. 98–473, title I, § 101(c) [title I, § 110], Oct. 12, 1984, 98 Stat. 1837, 1855.

Pub. L. 98–146, title I, § 111, Nov. 4, 1983, 97 Stat. 937.

[1] See References in Text note below.

[1] See References in Text note below.

### § 1473e. Acceptance of donations and bequests for Natural Resources Library

In fiscal year 1999 and thereafter, the Secretary may accept donations and bequests of money, services, or other personal property for the management and enhancement of the Department's Natural Resources Library. The Secretary may hold, use, and administer such donations until expended and without further appropriation.

(Pub. L. 105–277, div. A, § 101(e) [title I, § 113], Oct. 21, 1998, 112 Stat. 2681–231, 2681–255.)

### § 1474. Availability of receipts from administrative fees for program operations in Mining Law Administration

In fiscal year 1989 all but $742,000 of receipts, and thereafter all receipts from fees established by the Secretary of the Interior for processing of actions relating to the administration of the General Mining Laws shall be available for program operations in Mining Law Administration by the Bureau of Land Management to supplement funds otherwise available, to remain available until expended.

(Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1774.)

### § 1474a. Emergency Department of the Interior Firefighting Fund; amounts considered "emergency requirements"

On and after November 13, 1991, beginning in fiscal year 1993, and in each year thereafter, only amounts for emergency rehabilitation and wildfire suppression activities that are in excess of the average of such costs for the previous ten years shall be considered ''emergency requirements'' pursuant to section 901(b)(2)(D)[1] of title 2, and such amounts shall on and after November 13, 1991, be so designated.

(Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 991.)

REFERENCES IN TEXT

Section 901 of title 2, referred to in text, was amended by Pub. L. 105–33, title X, § 10203(a)(4), Aug. 5, 1997, 111 Stat. 699, and by Pub. L. 112–25, title I, § 101, Aug. 2, 2011, 125 Stat. 241. As so amended, section 901(b)(2)(D) of title 2 no longer refers to ''emergency requirements''.

### § 1474b. Natural Resource Damage Assessment and Restoration Fund; availability of assessments

Notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party, including sums provided in advance or as a reimbursement for natural resource damage assessments, may be credited to this appropriation and shall remain available until expended.

(Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 994.)

[1] See References in Text note below.

REFERENCES IN TEXT

This appropriation, referred to in text, probably means appropriations under the heading ''NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND'' of the annual Department of the Interior and Related Agencies Appropriations Act.

INVESTMENT OF EXXON VALDEZ OIL SPILL COURT RECOVERY IN HIGH YIELD INVESTMENTS AND IN MARINE RESEARCH

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 350], Nov. 29, 1999, 113 Stat. 1535, 1501A–207, provided that:

''(1) Notwithstanding any other provision of law and subject to the provisions of paragraphs (5) and (7), upon the joint motion of the United States and the State of Alaska and the issuance of an appropriate order by the United States District Court for the District of Alaska, the joint trust funds, or any portion thereof, including any interest accrued thereon, previously received or to be received by the United States and the State of Alaska pursuant to the Agreement and Consent Decree issued in United States v. Exxon Corporation, et al. (No. A91–082 CIV) and State of Alaska v. Exxon Corporation, et al. (No. A91–083 CIV) (hereafter referred to as the 'Consent Decree'), may be deposited in—

''(A) the Natural Resource Damage Assessment and Restoration Fund (hereafter referred to as the 'Fund') established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154; 43 U.S.C. 1474b);

''(B) accounts outside the United States Treasury (hereafter referred to as 'outside accounts'); or

''(C) both.

Any funds deposited in an outside account may be invested only in income-producing obligations and other instruments or securities that have been determined unanimously by the Federal and State natural resource trustees for the Exxon Valdez oil spill ('trustees') to have a high degree of reliability and security.

''(2) Joint trust funds deposited in the Fund or an outside account that have been approved unanimously by the Trustees for expenditure by or through a State or Federal agency shall be transferred promptly from the Fund or the outside account to the State of Alaska or United States upon the joint request of the governments.

''(3) The transfer of joint trust funds outside the Court Registry shall not affect the supervisory jurisdiction of the district court under the Consent Decree or the Memorandum of Agreement and Consent Decree in United States v. State of Alaska (No. A91–081–CIV) over all expenditures of the joint trust funds.

''(4) Nothing herein shall affect the requirement of section 207 of the dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for the incremental cost of 'Operation Desert Shield/Desert Storm' Act of 1992 (Public Law 102–229; 42 U.S.C. 1474b note [43 U.S.C. 1474b note]) that amounts received by the United States and designated by the trustees for the expenditure by or through a Federal agency must be deposited into the Fund.

''(5) All remaining settlement funds are eligible for the investment authority granted under this section so long as they are managed and allocated consistent with the Resolution of the Trustees adopted March 1, 1999, concerning the Restoration Reserve, as follows:

''(A) $55 million of the funds remaining on October 1, 2002, and the associated earnings thereafter shall be managed and allocated for habitat protection programs including small parcel habitat acquisitions. Such sums shall be reduced by—

''(i) the amount of any payments made after the date of enactment of this Act [Nov. 29, 1999] from the Joint Trust Funds pursuant to an agreement between the Trustee Council and Koniag, Inc., which includes those lands which are presently subject to the Koniag Non-Development Easement, including, but not limited to, the continuation or modification of such Easement; and

''(ii) payments in excess of $6.32 million for any habitat acquisition or protection from the joint trust funds after the date of enactment of this Act and prior to October 1, 2002, other than payments for which the Council is currently obligated through purchase agreements with the Kodiak Island Borough, Afognak Joint Venture and the Eyak Corporation.

''(B) All other funds remaining on October 1, 2002, and the associated earnings shall be used to fund a program, consisting of—

''(i) marine research, including applied fisheries research;

''(ii) monitoring; and

''(iii) restoration, other than habitat acquisition, which may include community and economic restoration projects and facilities (including projects proposed by the communities of the EVOS Region or the fishing industry), consistent with the Consent Decree.

''(6) The Federal trustees and the State trustees, to the extent authorized by State law, are authorized to issue grants as needed to implement this program.

''(7) The authority provided in this section shall expire on September 30, 2002, unless by September 30, 2001, the Trustees have submitted to the Congress a report recommending a structure the Trustees believe would be most effective and appropriate for the administration and expenditure of remaining funds and interest received. Upon the expiration of the authorities granted in this section all monies in the Fund or outside accounts shall be returned to the Court Registry or other account permitted by law.''

DEPOSIT OF FUNDS FROM SETTLEMENT OF LITIGATION

Pub. L. 102–229, title II, § 207, Dec. 12, 1991, 105 Stat. 1715, provided that: ''Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of United States v. Exxon Corporation and Exxon Shipping Company (Case No. A90–015–1CR and 2CR), hereinafter the Plea Agreement, United States v. Exxon Corporation et al. (Civil No. A91–082 CIV) and State of Alaska v. Exxon Corporation et al. (Civil No. A91–083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102–154 [105 Stat. 994]. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23–24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such amounts (and accrued interest) shall remain available until expended: *Provided further*, That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: *Provided further*, That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: *Provided further*, That interest earned by such investments shall be available for obligation without further appropriation: *Provided further*, That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: *Provided further*, That, for fiscal year 1993 and

thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts.''

### § 1474b–1. Transfer of funds from Natural Resource Damage Assessment and Restoration Fund

Notwithstanding any other provision of law, any amounts appropriated or credited in fiscal year 1992 and thereafter, may be transferred to any account, including transfers to Federal trustees and payments to non-Federal trustees, to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380) [33 U.S.C. 2701 et seq.], and the Act of July 27, 1990 (Public Law 101–337) [16 U.S.C. 19jj et seq.] for damage assessment activities: *Provided further*, That sums provided by any party heretofore and hereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums, to remain available until expended, or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

(Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1383; Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–160; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1547.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act, referred to in text, probably means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96–510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§ 9601 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 9601 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Oil Pollution Act of 1990, referred to in text, is Pub. L. 101–380, Aug. 18, 1990, 104 Stat. 484, as amended, which is classified principally to chapter 40 (§ 2701 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 33 and Tables.

Act of July 27, 1990, referred to in text, is Pub. L. 101–337, July 27, 1990, 104 Stat. 379, which is classified generally to subchapter III–B (§ 19jj et seq.) of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Provisions of this section preceding the proviso are from title I of Pub. L. 103–138, as amended, and the proviso is from section 101(c) [title I] of Pub. L. 104–134, as amended.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2503.
Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1383.

AMENDMENTS

1997—Pub. L. 105–83 inserted '', including transfers to Federal trustees and payments to non-Federal trustees,'' after ''account'' and '', to remain available until expended,'' after ''and such sums'' and substituted ''heretofore and hereafter'' for ''in fiscal year 1996 and thereafter''.

### § 1474c. North American Wetlands Conservation Fund; availability of fines or forfeitures

In fiscal year 1992 and thereafter, amounts received during the immediately preceding fiscal year under section 707 of title 16 as penalties or fines or from forfeitures of property or collateral, to remain available until expended.

(Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1384.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:
Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1381.
Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 995.

### § 1474d. Environmental Improvement and Restoration Fund

**(a) Fund**

One half of the amounts awarded by the Supreme Court to the United States in the case of United States of America v. State of Alaska (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the ''Environmental Improvement and Restoration Fund'' (referred to in this section as the ''Fund'').

**(b) Investments**

**(1) In general**

The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.

**(2) Acquisition of obligations**

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

**(3) Sale of obligations**

Any obligations acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

**(4) Credits to Fund**

The interest earned from investments of the Fund shall be covered into and form a part of the Fund.

**(c) Transfer and availability of amounts earned**

Each year, interest earned and covered into the Fund in the previous fiscal year shall be made available as follows:

(1) To the extent provided in the subsequent appropriations Acts, 80 percent of such amounts shall be made available to be equally

divided among the Directors of the National Park Service, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Chief of the Forest Service for high priority deferred maintenance and modernization of facilities that directly enhance the experience of visitors, including natural, cultural, recreational, and historic resources protection projects in National Parks, National Wildlife Refuges, and the public lands respectively as provided in subsection (d) of this section and for payment to the State of Louisiana and its lessees for oil and gas drainage in the West Delta field. The Secretary shall submit with the annual budget submission to Congress a list of high priority maintenance and modernization projects for congressional consideration.

(2) 20 percent of such amounts shall be made available without further appropriation to the Secretary of Commerce for the purpose of carrying out marine research activities in the North Pacific in accordance with subsection (e) of this section.

**(d) Projects**

A project referred to in subsection (c)(1) of this section shall be consistent with the laws governing the National Park System, the National Wildlife Refuge System, the public lands and Forest Service lands and management plan for such unit.

**(e) Marine research activities**

(1) Funds available under subsection (c)(2) of this section shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).

(2) Research priorities and grant requests shall be reviewed by a board to be known as the North Pacific Research Board (referred to in this subsection as the ''Board''). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts designed to address pressing fishery management or marine ecosystem information needs.

(3) The Board shall be comprised of the following representatives or their designees—

(A) the Secretary of Commerce;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Commandant of the Coast Guard;

(E) the Director of the Office of Naval Research;

(F) the Alaska Commissioner of Fish and Game;

(G) the Chairman of the North Pacific Fishery Management Council;

(H) the Chairman of the Arctic Research Commission;

(I) the Director of the Oil Spill Recovery Institute;

(J) the Director of the Alaska SeaLife Center;

(K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom shall represent academia, and one of whom shall represent oil and gas interests;

(L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and[1]

(M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.[2]

(N) one member who shall represent fishing interests and shall be nominated by the Board and appointed by the Secretary.

The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three-year terms, and may be reappointed.

(4)(A) The Secretary of Commerce shall review grants recommended by the Board. If the Secretary does not approve a grant recommended by the Board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.

(B) The Board shall establish written criteria for the submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 1852(g) of title 16 for the purposes of section 1852(i)(1) of title 16, and the other procedural matters applicable to advisory panels under section 1852(i) of title 16 shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board. Not more than 15 percent of the funds provided to the Secretary of Commerce under paragraph (1) may be used to provide support for the Board and administer grants under this subsection.

(5) All decisions of the Board, including grant recommendations, shall be by majority vote of the members listed in paragraphs (3)(A), (3)(F), (3)(G), (3)(J), and (3)(N), in consultation with the other members. The five voting members may act on behalf of the Board in all matters of administration, including the disposition of research funds not made available by this section, at any time on or after October 1, 2000.

(Pub. L. 105–83, title IV, § 401, Nov. 14, 1997, 111 Stat. 1607; Pub. L. 105–277, div. A, § 101(e) [title III, § 331], Oct. 21, 1998, 112 Stat. 2681–231, 2681–293;

[1] So in original. The word ''and'' probably should not appear.

[2] So in original. The period probably should be ''; and''.

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 352(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–209; Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–239; Pub. L. 108–7, div. F, title III, § 334, Feb. 20, 2003, 117 Stat. 277.)

AMENDMENTS

2003—Subsec. (e)(4)(B). Pub. L. 108–7 substituted ''15 percent'' for ''5 percent''.

2000—Subsec. (e)(2). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(A)], struck out ''and recommended for Secretarial approval'' after ''shall be reviewed''.

Subsec. (e)(3)(A). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(B)], struck out '', who shall be a co-chair of the Board'' before semicolon at end.

Subsec. (e)(3)(F). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(C)], which directed amendment of subpar. (F) by striking out '', who shall be a co-chair of the Board'', was executed by striking out '', who shall also be a co-chair of the Board'' before semicolon at end to reflect the probable intent of Congress.

Subsec. (e)(3)(N). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(G)], which directed amendment of par. (3) by adding subpar. (N) at the end, was executed by adding subpar. (N) after subpar. (M), to reflect the probable intent of Congress.

Subsec. (e)(4)(A). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(D)], struck out ''and administer'' after ''shall review''.

Subsec. (e)(4)(B). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(E)], struck out ''Grant recommendations and other decisions of the Board shall be by majority vote, with each member having one vote.'' after ''(B)''.

Subsec. (e)(5). Pub. L. 106–554, § 1(a)(4) [div. B, title I, § 144(c)(2)(F)], added par. (5).

1999—Subsec. (c). Pub. L. 106–113, § 1000(a)(3) [title III, § 352(a)(1)], substituted ''made available'' for ''available for appropriation, to the extent provided in the subsequent appropriations Acts,'' in introductory provisions, inserted ''To the extent provided in the subsequent appropriations Acts,'' before ''80 percent of such amounts'' in par. (1), and ''without further appropriation'' after ''20 percent of such amounts shall be made available'' in par. (2).

Subsec. (f). Pub. L. 106–113, § 1000(a)(3) [title III, § 352(a)(2)], struck out heading and text of subsec. (f). Text read as follows: ''If amounts are not assumed by the concurrent budget resolution and appropriated from the Fund by December 15, 1999, the Fund shall terminate and the amounts in the Fund including the accrued interest shall be applied to reduce the Federal deficit.''

1998—Subsec. (f). Pub. L. 105–277 substituted ''1999'' for ''1998''.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

### § 1474e. Sums received by the Bureau of Land Management for the sale of seeds

Notwithstanding section 3302(b) of title 31, sums received by the Bureau of Land Management for the sale of seeds or seedlings, may on and after December 8, 2004, be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.

(Pub. L. 108–447, div. E, title I, § 118, Dec. 8, 2004, 118 Stat. 3065.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–108, title I, § 119, Nov. 10, 2003, 117 Stat. 1268.

Pub. L. 108–7, div. F, title I, § 121, Feb. 20, 2003, 117 Stat. 241.

Pub. L. 107–63, title I, § 124, Nov. 5, 2001, 115 Stat. 440.

Pub. L. 106–291, title I, § 142, Oct. 11, 2000, 114 Stat. 949.

### § 1474f. Sums received by the Bureau of Land Management from vendors under enterprise information technology-procurements

Sums not to exceed 1 percent of the total value of procurements received by the Bureau of Land Management from vendors under enterprise information technology-procurements that the Department of the Interior and other Federal Government agencies may use to order information technology on and after March 11, 2009, may be deposited into the Management of Lands and Resources account to offset costs incurred in conducting the procurement.

(Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 704.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation act:

Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2101.

### § 1475. Bureau of Reclamation acceptance of services of volunteers

The Bureau of Reclamation may on and after September 29, 1989, accept the services of volunteers and, from any funds available to it, provide for their incidental expenses to carry out any activity of the Bureau of Reclamation except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government, except for the purposes of chapter 81 of title 5 relating to compensation for work injuries, and shall not be deemed employees of the Bureau of Reclamation except for the purposes of tort claims to the same extent as a regular employee of the Bureau of Reclamation would be under identical circumstances.

(Pub. L. 101–101, title II, Sept. 29, 1989, 103 Stat. 656.)

### § 1475a. Participation of non-Federal entities in contract negotiations and source selection proceedings

On and after October 2, 1992, the Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in contract negotiation and source selection proceedings without invoking provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix (1988)): *Provided*, That such non-Federal participants shall be subject to the provisions of chapter 21 of title 41 and to the conflict of interest provisions appearing at 18 U.S.C. 201 et seq. (1988).

(Pub. L. 102–377, title II, § 205, Oct. 2, 1992, 106 Stat. 1332.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In text, ''chapter 21 of title 41'' substituted for ''the Federal Procurement Integrity Act (41 U.S.C. 423 (1988))'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

### § 1475b. Volunteer authority

**(a) In general**

The Secretary of the Interior may recruit, train, and accept, without regard to the civil service classification laws, rules, or regulations, the services of individuals, contributed without compensation as volunteers, for aiding in or facilitating the activities administered by the Secretary through the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.

**(b) Restrictions on activities of volunteers**

**(1) In general**

In accepting such services of individuals as volunteers, the Secretary shall not permit the use of volunteers in law enforcement work, in regulatory and enforcement work, in policymaking processes, or to displace any employee.

**(2) Private property**

No volunteer services authorized by this Act may be conducted on private property unless the officer or employee charged with supervising the volunteer obtains appropriate consent to enter the property from the property owner.

**(3) Hazardous duty**

The Secretary may accept the services of individuals in hazardous duty only upon a determination by the Secretary that such individuals are skilled in performing hazardous duty activities.

**(4) Supervision**

The Secretary shall ensure that an appropriate officer or employee of the United States provides adequate and appropriate supervision of each volunteer whose services the Secretary accepts.

**(c) Provision of services and costs**

The Secretary may provide for services and costs incidental to the utilization of volunteers, including transportation, supplies, uniforms, lodging, subsistence (without regard to place of residence), recruiting, training, supervision, and awards and recognition (including nominal cash awards).

**(d) Federal employment status of volunteers**

(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) Volunteers shall be deemed employees of the United States for the purposes of—

(A) the tort claims provisions of title 28;

(B) subchapter I of chapter 81 of title 5; and

(C) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of section 3721 of title 31 shall apply.

(3) Volunteers under this Act shall be subject to chapter 11 of title 18, unless the Secretary, with the concurrence of the Director of the Office of Government Ethics, determines in writing published in the Federal Register that the provisions of that chapter, except section 201, shall not apply to the actions of a class or classes of volunteers who carry out only those duties or functions specified in the determination.

(Pub. L. 109–125, § 3, Dec. 7, 2005, 119 Stat. 2544.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(2) and (d)(3), is Pub. L. 109–125, Dec. 7, 2005, 119 Stat. 2544, known as the Department of the Interior Volunteer Recruitment Act of 2005, which enacted this section and provisions set out as notes under this section and section 1451 of this title. For complete classification of this Act to the Code, see Short Title of 2005 Amendment note set out under section 1451 of this title and Tables.

PURPOSE

Pub. L. 109–125, § 2, Dec. 7, 2005, 119 Stat. 2544, provided that: ''The purpose of this Act [enacting this section and provisions set out as a note under section 1451 of this title] is to authorize the Secretary of the Interior to recruit and use volunteers to assist with, or facilitate, the programs of the Bureau of Indian Affairs, the United States Geological Survey, the Bureau of Reclamation, and the Office of the Secretary.''

## CHAPTER 32—COLORADO RIVER BASIN PROJECT

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1555. Federal Power Act inapplicable to Colorado River between Hoover Dam and Glen Canyon Dam.
1556. Definitions.

## SUBCHAPTER I—OBJECTIVES

### § 1501. Congressional declaration of purpose and policy

(a) It is the object of this chapter to provide a program for the further comprehensive development of the water resources of the Colorado River Basin and for the provision of additional and adequate water supplies for use in the upper as well as in the lower Colorado River Basin. This program is declared to be for the purposes, among others, of regulating the flow of the Colorado River; controlling floods; improving navigation; providing for the storage and delivery of the waters of the Colorado River for reclamation of lands, including supplemental water supplies, and for municipal, industrial, and other beneficial purposes; improving water quality; providing for basic public outdoor recreation facilities; improving conditions for fish and wildlife, and the generation and sale of electrical power as an incident of the foregoing purposes.

(b) It is the policy of the Congress that the Secretary of the Interior (hereinafter referred to the ''Secretary'') shall continue to develop, after consultation with affected States and appropriate Federal agencies, a regional water plan, consistent with the provisions of this chapter and with future authorizations, to serve as the framework under which projects in the Colorado River Basin may be coordinated and constructed with proper timing to the end that an adequate supply of water may be made available for such projects, whether heretofore, herein, or hereafter authorized.

(Pub. L. 90–537, title I, § 102, Sept. 30, 1968, 82 Stat. 886.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE OF REPEAL ON FAILURE OF ENFORCEABILITY DATE

Pub. L. 108–451, title I, § 111, Dec. 10, 2004, 118 Stat. 3499, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), if the Secretary [of the Interior] does not publish a statement of findings under section 207(c) [118 Stat. 3519] by December 31, 2007 [published Dec. 14, 2007, see 72 F.R. 71143]—

''(1) this title [see Short Title of 2004 Amendment note below] is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void; and

''(2) any amounts appropriated under section 110 [118 Stat. 3498] that remain unexpended shall immediately revert to the general fund of the Treasury.

''(b) EXCEPTION.—No subcontract amendment executed by the Secretary under the notice of June 18, 2003 (67 Fed. Reg. 36578), shall be considered to be a contract entered into by the Secretary for purposes of subsection (a)(1).''

Pub. L. 108–451, title II, § 215, Dec. 10, 2004, 118 Stat. 3535, provided that: ''If the Secretary [of the Interior] does not publish a statement of findings under section 207(c) [118 Stat. 3519] by December 31, 2007 [published Dec. 14, 2007, see 72 F.R. 71143]—

''(1) except for section 213(i) [118 Stat. 3532], this title [see Short Title of 2004 Amendment note below] is repealed effective January 1, 2008, and any action taken by the Secretary and any contract entered under any provision of this title shall be void;

''(2) any amounts appropriated under paragraphs (1) through (7) of section 214(a) [118 Stat. 3534, 3535], together with any interest on those amounts, shall immediately revert to the general fund of the Treasury;

''(3) any amounts made available under section 214(b) [118 Stat. 3535] that remain unexpended shall immediately revert to the general fund of the Treasury; and

''(4) any amounts paid by the Salt River Project in accordance with the Gila River agreement shall immediately be returned to the Salt River Project.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–451, § 1(a), Dec. 10, 2004, 118 Stat. 3478, provided that: ''This Act [amending sections 1524 and 1543 of this title and enacting and repealing provisions set out as notes under this section and section 1543 of this title] may be cited as the 'Arizona Water Settlements Act'.''

Pub. L. 108–451, title I, § 101, Dec. 10, 2004, 118 Stat. 3486, provided that: ''This title [amending section 1543 of this title and enacting and repealing provisions set out as notes under this section and section 1543 of this title] may be cited as the 'Central Arizona Project Settlement Act of 2004'.''

Pub. L. 108–451, title II, § 201, Dec. 10, 2004, 118 Stat. 3499, provided that: ''This title [amending section 1524 of this title and enacting and repealing provisions set out as notes under this section] may be cited as the 'Gila River Indian Community Water Rights Settlement Act of 2004'.''

SHORT TITLE

Section 101 of Pub. L. 90–537 provided: ''That this Act [enacting this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amending sections 616hh, 620, and 620a of this title, and enacting provisions set out as notes under sections 620, 620k, and 1501 of this title] may be cited as the 'Colorado River Basin Project Act'.''

SUBCHAPTER II—INVESTIGATIONS AND PLANNING

### § 1511. Reconnaissance investigations by Secretary of the Interior; reports; 10-year moratorium on water importation studies

Pursuant to the authority set out in the Reclamation Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto, and the provisions of the Water Resources Planning Act of July 22, 1965, 79 Stat. 244, as amended [42 U.S.C. 1962 et seq.], with respect to the coordination of studies, investigations and assessments, the Secretary of the Interior shall conduct full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the Western United States. Such investigations shall include the long-range water supply available and the long-range water requirements in each water resource region of the Western United States. Progress reports in connection with these investigations shall be submitted to the President, the National Water Commission (while it is in existence), the Water Resources Council, and to the Congress every two years. The first of such reports shall be submitted on or before June 30, 1971, and a final reconnaissance report shall be submitted not later than June 30, 1977: *Provided*, That for a period of ten years from November 2, 1978, any Federal official shall not undertake reconnaissance studies of any plan for the importation of water into the Colorado River Basin from any other natural river drainage basin lying outside the States of Arizona, California, Colorado, New Mexico, and those portions of Nevada, Utah, and Wyoming which are in the natural drainage basin of the Colorado River.

(Pub. L. 90–537, title II, § 201, Sept. 30, 1968, 82 Stat. 886; Pub. L. 95–578, § 10, Nov. 2, 1978, 92 Stat. 2472; Pub. L. 96–375, § 10, Oct. 3, 1980, 94 Stat. 1507.)

REFERENCES IN TEXT

The Reclamation Act of June 17, 1902, 32 Stat. 388, referred to in text, 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 Water Resources Planning Act, as amended, referred to in text, is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, as amended, which is classified generally to chapter 19B (§ 1962 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 1962 of Title 42 and Tables.

AMENDMENTS

1980—Pub. L. 96–375 substituted "any Federal official" for "the Secretary" in proviso.

1978—Pub. L. 95–578 substituted "November 2, 1978" for "September 30, 1968".

TERMINATION OF NATIONAL WATER COMMISSION

National Water Commission, established by Pub. L. 90–515, Sept. 26, 1968, 82 Stat. 868, terminated Sept. 26, 1973.

### § 1511a. Cooperation and participation by Secretary of the Army with Federal, State, and local agencies

The Secretary of the Army, acting through the Chief of Engineers, is authorized to cooperate and participate with concerned Federal, State, and local agencies in preparing the general plan for the development of the water resources of the western United States authorized by the Colorado River Basin Project Act [43 U.S.C. 1501 et seq.].

(Pub. L. 91–611, title II, § 203, Dec. 31, 1970, 84 Stat. 1828.)

REFERENCES IN TEXT

The Colorado River Basin Project Act, referred to in text, is Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Colorado River Basin Project Act which comprises this chapter.

### § 1512. Mexican Water Treaty

The Congress declares that the satisfaction of the requirements of the Mexican Water Treaty from the Colorado River constitutes a national obligation which shall be the first obligation of any water augmentation project planned pursuant to section 1511 of this title and authorized by the Congress. Accordingly, the States of the Upper Division (Colorado, New Mexico, Utah, and Wyoming) and the States of the Lower Division (Arizona, California, and Nevada) shall be relieved from all obligations which may have been imposed upon them by article III(c) of the Colorado River Compact so long as the Secretary shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to satisfy the requirements of the Mexican Water Treaty together with any losses of water associated with the performance of that treaty: *Provided*, That the satisfaction of the requirements of the Mexican Water Treaty (Treaty Series 994, 59 Stat. 1219), shall be from the waters of the Colorado River pursuant to the treaties, laws, and compacts presently relating thereto, until such time as a feasibility plan showing the most economical means of augmenting the water supply available in the Colorado River below Lee Ferry by two and one-half million acre-feet shall be authorized by the Congress and is in operation as provided in this chapter.

(Pub. L. 90–537, title II, § 202, Sept. 30, 1968, 82 Stat. 887.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 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.

### § 1513. Importation of water; protection of exporting areas

(a) In the event that the Secretary shall, pursuant to section 1511 of this title, plan works to

import water into the Colorado River system from sources outside the natural drainage areas of the system, he shall make provision for adequate and equitable protection of the interests of the States and areas of origin, including assistance from funds specified in this chapter, to the end that water supplies may be available for use in such States and areas of origin adequate to satisfy their ultimate requirements at prices to users not adversely affected by the exportation of water to the Colorado River system.

(b) All requirements, present or future, for water within any State lying wholly or in part within the drainage area of any river basin from which water is exported by works planned pursuant to this chapter shall have a priority of right in perpetuity to the use of the waters of that river basin, for all purposes, as against the uses of the water delivered by means of such exportation works, unless otherwise provided by interstate agreement.

(Pub. L. 90–537, title II, § 203, Sept. 30, 1968, 82 Stat. 887.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 of this title. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

### § 1514. Authorization of appropriations

There are authorized to be appropriated such sums as are required to carry out the purposes of this subchapter.

(Pub. L. 90–537, title II, § 204, Sept. 30, 1968, 82 Stat. 887.)

## SUBCHAPTER III—AUTHORIZED UNITS; PROTECTION OF EXISTING USES

### § 1521. Central Arizona Project

**(a) Construction and operation; Hayden-Rhodes Aqueduct and pumping plants; Orme Dam and Reservoir; Buttes Dam and Reservoir; Hooker Dam and Reservoir; Charleston Dam and Reservoir; Tucson aqueducts and pumping plants; Fannin-McFarland Aqueduct; related and appurtenant works**

For the purposes of furnishing irrigation water and municipal water supplies to the water-deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary shall construct, operate, and maintain the Central Arizona Project, consisting of the following principal works: (1) a system of main conduits and canals, including a main canal and pumping plants (Hayden-Rhodes Aqueduct and pumping plants), for diverting and carrying water from Lake Havasu to Orme Dam or suitable alternative, which system may have a capacity of 3,000 cubic feet per second or whatever lesser capacity is found to be feasible: *Provided*, That any capacity in the Hayden-Rhodes Aqueduct in excess of 2,500 cubic feet per second shall be utilized for the conveyance of Colorado River water only when Lake Powell is full or releases of water are made from Lake Powell to prevent the reservoir from exceeding elevation 3,700 feet above mean sea level or when releases are made pursuant to the proviso in section 1552(a)(3) of this title: *Provided further*, That the costs of providing any capacity in excess of 2,500 cubic feet per second shall be repaid by those funds available to Arizona pursuant to the provision of section 1543(f) of this title, or by funds from sources other than the development fund; (2) Orme Dam and Reservoir and power pumping plant or suitable alternative; (3) Buttes Dam and Reservoir, which shall be so operated as not to prejudice the rights of any user in and to the waters of the Gila River as those rights are set forth in the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59); (4) Hooker Dam and Reservoir or suitable alternative, which shall be constructed in such a manner as to give effect to the provisions of subsection (f) of section 1524 of this title; (5) Charleston Dam and Reservoir; (6) Tucson aqueducts and pumping plants; (7) Fannin-McFarland Aqueduct; (8) related canals, regulating facilities, hydroelectric powerplants, and electric transmission facilities required for the operation of said principal works; (9) related water distribution and drainage works; and (10) appurtenant works.

**(b) Limitation on water diversions in years of insufficient main stream Colorado River water**

Article II(B)(3) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340) shall be so administered that in any year in which, as determined by the Secretary, there is insufficient main stream Colorado River water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada, diversions from the main stream for the Central Arizona Project shall be so limited as to assure the availability of water in quantities sufficient to provide for the aggregate annual consumptive use by holders of present perfected rights, by other users in the State of California served under existing contracts with the United States by diversion works heretofore constructed, and by other existing Federal reservations in that State, of four million four hundred thousand acre-feet of mainstream water, and by users of the same character in Arizona and Nevada. Water users in the State of Nevada shall not be required to bear shortages in any proportion greater than would have been imposed in the absence of this subsection. This subsection shall not affect the relative priorities, among themselves, of water users in Arizona, Nevada, and California which are senior to diversions for the Central Arizona Project, or amend any provisions of said decree.

**(c) Augmentation of water supply of Colorado River system**

The limitation stated in subsection (b) of this section shall not apply so long as the Secretary

shall determine and proclaim that means are available and in operation which augment the water supply of the Colorado River system in such quantity as to make sufficient mainstream water available for release to satisfy annual consumptive use of seven million five hundred thousand acre-feet in Arizona, California, and Nevada.

(Pub. L. 90–537, title III, § 301, Sept. 30, 1968, 82 Stat. 887; Pub. L. 100–345, § 2(b), June 24, 1988, 102 Stat. 643; Pub. L. 102–575, title XIII, § 1302, Oct. 30, 1992, 106 Stat. 4662.)

AMENDMENTS

1992—Subsec. (a)(7). Pub. L. 102–575 substituted ''Fannin-McFarland Aqueduct'' for ''Salt-Gila aqueducts''.

1988—Subsec. (a)(1). Pub. L. 100–345 substituted ''Hayden-Rhodes Aqueduct'' for ''Granite Reef aqueduct'' in two places.

DESIGNATION OF SALT-GILA AQUEDUCT AS FANNIN-MCFARLAND AQUEDUCT

Sections 1301 and 1302 of Pub. L. 102–575 provided that:

''SEC. 1301. DESIGNATION.

''The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the 'Fannin-McFarland Aqueduct'.

''SEC. 1302. REFERENCES.

''Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1301 hereby is deemed to be a reference to the 'Fannin-McFarland Aqueduct'.''

DESIGNATION OF GRANITE REEF AQUEDUCT AS HAYDEN-RHODES AQUEDUCT

Section 2 of Pub. L. 100–345 provided that:

''(a) The Granite Reef Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(1) of the Colorado River Basin [Project] Act (43 U.S.C. 1521(a)(1)), hereafter shall be known and designated as the 'Hayden-Rhodes Aqueduct'.

''(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the 'Hayden-Rhodes Aqueduct'.''

## § 1522. Orme Dam and Reservoir

### (a) Acquisition of lands of Salt River Pima-Maricopa Indian Community and Fort McDowell-Apache Indian Community; relocation; eminent domain

The Secretary shall designate the lands of the Salt River Pima-Maricopa Indian Community, Arizona, and the Fort McDowell-Apache Indian Community, Arizona, or interests therein, and any allotted lands or interests therein within said communities which he determines are necessary for use and occupancy by the United States for the construction, operation, and maintenance of Orme Dam and Reservoir, or alternative. The Secretary shall offer to pay the fair market value of the lands and interests designated, inclusive of improvements. In addition, the Secretary shall offer to pay toward the cost of relocating or replacing such improvements not to exceed $500,000 in the aggregate, and the amount offered for the actual relocation or replacement of a residence shall not exceed the difference between the fair market value of the residence and $8,000. Each community and each affected allottee shall have six months in which to accept or reject the Secretary's offer. If the Secretary's offer is rejected, the United States may proceed to acquire the property interests involved through eminent domain proceedings in the United States District Court for the District of Arizona under sections 3113 and 3114(a) to (d) of title 40. Upon acceptance in writing of the Secretary's offer, or upon the filing of a declaration of taking in eminent domain proceedings, title to the lands or interests involved, and the right to possession thereof, shall vest in the United States. Upon a determination by the Secretary that all or any part of such lands or interests are no longer necessary for the purpose for which acquired, title to such lands or interests shall be restored to the appropriate community upon repayment to the Federal Government of the amounts paid by it for such lands.

### (b) Rights of former owners to use or lease land

Title to any land or easement acquired pursuant to this section shall be subject to the right of the former owner to use or lease the land for purposes not inconsistent with the construction, operation, and maintenance of the project, as determined by, and under terms and conditions prescribed by, the Secretary. Such right shall include the right to extract and dispose of minerals. The determination of fair market value under subsection (a) of this section shall reflect the right to extract and dispose of minerals and all other uses permitted by this section.

### (c) Addition of land to Fort McDowell Indian Reservation

In view of the fact that a substantial portion of the lands of the Fort McDowell Mohave-Apache Indian Community will be required for Orme Dam and Reservoir, or alternative, the Secretary shall, in addition to the compensation provided for in subsection (a) of this section, designate and add to the Fort McDowell Indian Reservation twenty-five hundred acres of suitable lands in the vicinity of the reservation that are under the jurisdiction of the Department of the Interior in township 4 north, range 7 east; township 5 north, range 7 east; and township 3 north, range 7 east, Gila and Salt River base meridian, Arizona. Title to lands so added to the reservation shall be held by the United States in trust for the Fort McDowell Mohave-Apache Indian Community.

### (d) Recreational facilities developed and operated by Indian communities along Orme Reservoir shoreline

Each community shall have a right, in accordance with plans approved by the Secretary, to develop and operate recreational facilities along the part of the shoreline of the Orme Reservoir located on or adjacent to its reservation, including land added to the Fort McDowell Reservation as provided in subsection (b) of this section, subject to rules and regulations prescribed by the Secretary governing the recreation development of the reservoir. Recreation development of the entire reservoir and federally owned lands under the jurisdiction of the Secretary adjacent thereto shall be in accordance with a master

recreation plan approved by the Secretary. The members of each community shall have non-exclusive personal rights to hunt and fish on or in the reservoir without charge to the same extent they are now authorized to hunt and fish, but no community shall have the right to exclude others from the reservoir except by control of access through its reservation or any right to require payment by members of the public except for the use of community lands or facilities.

**(e) Exemption of funds from State and Federal income taxes**

All funds paid pursuant to this section, and any per capita distribution thereof, shall be exempt from all forms of State and Federal income taxes.

(Pub. L. 90–537, title III, § 302, Sept. 30, 1968, 82 Stat. 888.)

CODIFICATION

In subsec. (a), ''sections 3113 and 3114(a) to (d) of title 40'' substituted for ''40 U.S.C., sections 257 and 258a'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

INAPPLICABILITY OF SUBSECTION (a) TO FORT MCDOWELL INDIAN COMMUNITY

Pub. L. 101–628, title IV, § 411(e), Nov. 28, 1990, 104 Stat. 4491, provided that: ''As of the date the authorizations contained in section 409(b) of this Act become effective [see section 412 of Pub. L. 101–628, 104 Stat. 4491], section 302(a) of the Colorado River Basin Project Act (43 U.S.C. 1522(a)) shall no longer apply to the Community [Fort McDowell Indian Community].''

INAPPLICABILITY TO SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

Pub. L. 100–512, § 11(c), Oct. 20, 1988, 102 Stat. 2558, provided that: ''Upon the effective date of this Act as set forth in section 12 [102 Stat. 2559], section 302 of the Colorado River Basin Project Act (43 U.S.C. 1522) shall no longer apply to the Community [Salt River Pima-Maricopa Indian Community].''

## § 1523. Power requirements of Central Arizona Project and augmentation of Lower Colorado River Basin Development Fund

**(a) Engineering and economic studies**

The Secretary is authorized and directed to continue to a conclusion appropriate engineering and economic studies and to recommend the most feasible plan for the construction and operation of hydroelectric generating and transmission facilities, the purchase of electrical energy, the purchase of entitlement to electrical plant capacity, or any combination thereof, including participation, operation, or construction by non-Federal entities, for the purpose of supplying the power requirements of the Central Arizona Project and augmenting the Lower Colorado River Basin Development Fund: *Provided*, That nothing in this section or in this chapter contained shall be construed to authorize the study or construction of any dams on the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam.

**(b) Construction of thermal generating powerplants; agreements for acquisition by United States of portions of plant capacity**

If included as a part of the recommended plan, the Secretary may enter into agreements with non-Federal interests proposing to construct thermal generating powerplants whereby the United States shall acquire the right to such portions of their capacity, including delivery of power and energy over appurtenant transmission facilities to mutually agreed upon delivery points, as he determines is required in connection with the operation of the Central Arizona Project. When not required for the Central Arizona Project, the power and energy acquired by such agreements may be disposed of intermittently by the Secretary for other purposes at such prices as he may determine, including its marketing in conjunction with the sale of power and energy from Federal powerplants in the Colorado River system so as to produce the greatest practicable amount of power and energy that can be sold at firm power and energy rates. The agreements shall provide among other things, that—

(1) the United States shall pay not more than that portion of the total construction cost, exclusive of interest during construction, of the powerplants, and of any switchyards and transmission facilities serving the United States, as is represented by the ratios of the respective capacities to be provided for the United States therein to the total capacities of such facilities. The Secretary shall make the Federal portion of such costs available to the non-Federal interests during the construction period, including the period of preparation of designs and specifications, in such installments as will facilitate a timely construction schedule, but no funds other than for preconstruction activities shall be made available by the Secretary until he determines that adequate contractual arrangements have been entered into between all the affected parties covering land, water, fuel supplies, power (its availability and use), rights-of-way, transmission facilities and all other necessary matters for the thermal generating powerplants;

(2) annual operation and maintenance costs shall be apportioned between the United States and the non-Federal interests on an equitable basis taking into account the ratios determined in accordance with the foregoing clause (1): *Provided*, *however*, That the United States shall share on the foregoing basis in the depreciation component of such costs only to the extent of provision for depreciation on replacements financed by the non-Federal interests;

(3) the United States shall be given appropriate credit for any interests in Federal lands administered by the Department of the Interior that are made available for the power plants and appurtenances;

(4) costs to be borne by the United States under clauses (1) and (2) shall not include (a) interest and interest during construction, (b) financing charges, (c) franchise fees, and (d) such other costs as shall be specified in the agreement.

**(c) Recommended plan; submission to Congress**

No later than one year from September 30, 1968, the Secretary shall submit his recommended plan to the Congress. Except as authorized by subsection (b) of this section, such

plan shall not become effective until approved by the Congress.

**(d) Apportionment of water for Arizona plants diverted above Lee Ferry**

If any thermal generating plant referred to in subsection (b) of this section is located in Arizona, and if it is served by water diverted from the drainage area of the Colorado River system above Lee Ferry, other provisions of existing law to the contrary notwithstanding, such consumptive use of water shall be a part of the fifty thousand acre-feet per annum apportioned to the State of Arizona by article III(a) of the Upper Colorado River Basin Compact (63 Stat. 31).

(Pub. L. 90–537, title III, § 303, Sept. 30, 1968, 82 Stat. 889.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 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.

## § 1524. Water furnished from Central Arizona Project

**(a) Restriction on use of water for irrigation**

Unless and until otherwise provided by Congress, water from the Central Arizona Project shall not be made available directly or indirectly for the irrigation of lands not having a recent irrigation history as determined by the Secretary, except in the case of Indian lands, national wildlife refuges, and, with the approval of the Secretary, State-administered wildlife management areas.

**(b) Contracts with municipal and industrial users**

(1) Irrigation and municipal and industrial water supply under the Central Arizona Project within the State of Arizona may, in the event the Secretary determines that it is necessary to effect repayment, be pursuant to master contracts with organizations which have power to levy assessments against all taxable real property within their boundaries. The terms and conditions of contracts or other arrangements whereby each such organization makes water from the Central Arizona Project available to users within its boundaries shall be subject to the Secretary's approval, and the United States shall, if the Secretary determines such action is desirable to facilitate carrying out the provisions of this chapter, have the right to require that it be a party to such contracts or that contracts subsidiary to the master contracts be entered into between the United States and any user. The provisions of this clause (1) shall not apply to the supplying of water to an Indian tribe for use within the boundaries of an Indian reservation.

(2) Any obligation assumed pursuant to section 485h(d) of this title with respect to any project contract unit or irrigation block shall be repaid over a basic period of not more than fifty years; any water service provided pursuant to section 485h(e) of this title may be on the basis of delivery of water for a period of fifty years and for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits and from such other points of delivery as the Secretary may designate; and long-term contracts relating to irrigation water supply shall provide that water made available thereunder may be made available by the Secretary for municipal or industrial purposes if and to the extent that such water is not required by the contractor for irrigation purposes.

(3) Contracts relating to municipal and industrial water supply under the Central Arizona Project may be made without regard to the limitations of the last sentence of section 485h(c) of this title; may provide for the delivery of such water at an identical price per acre-foot for water of the same class at the several points of delivery from the main canals and conduits; and may provide for repayment over a period of fifty years if made pursuant to clause (1) of said section and for the delivery of water over a period of fifty years if made pursuant to clause (2) thereof.

**(c) Water conservation**

Each contract under which water is provided under the Central Arizona Project shall require that (1) there be in effect measures, adequate in the judgment of the Secretary, to control expansion of irrigation from aquifers affected by the irrigation in the contract service area; (2) the canals and distribution systems through which water is conveyed after its delivery by the United States to the contractors shall be provided and maintained with linings adequate in his judgment to prevent excessive conveyance losses; and (3) [Repealed. Pub. L. 102–575, title XXXVII, § 3710(k), Oct. 30, 1992, 106 Stat. 4751]. Such contracts shall be subordinate at all times to the satisfaction of all existing contracts between the Secretary and users in Arizona heretofore made pursuant to the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.].

**(d) Water exchanges**

The Secretary may require in any contract under which water is provided from the Central Arizona Project that the contractor agree to accept main stream water in exchange for or in replacement of existing supplies from sources other than the main stream. The Secretary shall so require in the case of users in Arizona who also use water from the Gila River system to the extent necessary to make available to users of water from the Gila River system in New Mexico additional quantities of water as provided in and under the conditions specified in subsection (f) of this section: *Provided*, That such exchanges and replacements shall be accomplished without economic injury or cost to such Arizona contractors.

**(e) Water shortage priorities**

In times of shortage or reduction of main stream Colorado River water for the Central

Arizona Project, as determined by the Secretary, users which have yielded water from other sources in exchange for main stream water supplied by that project shall have a first priority to receive main stream water, as against other users supplied by that project which have not so yielded water from other sources, but only in quantities adequate to replace the water so yielded.

**(f) New Mexico users; water exchange contracts**

(1) In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in the State of New Mexico, with the approval of its Interstate Stream Commission, or with the State of New Mexico, through its Interstate Stream Commission, for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of 10 consecutive years of 14,000 acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona v. California (376 U.S. 340). Such increased consumptive uses shall continue only so long as delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this chapter, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose, full consideration shall be given to any differences in the quality of the water involved.

(2) All additional consumptive uses provided for in clauses (1) and (2)[1] of this subsection shall be subject to all rights in New Mexico and Arizona as established by the decree entered by the United States District Court for the District of Arizona on June 29, 1935, in United States against Gila Valley Irrigation District and others (Globe Equity Numbered 59) and to all other rights existing on September 30, 1968, in New Mexico and Arizona to water from the Gila River, its tributaries, and underground water sources, and shall be junior thereto and shall be made only to the extent possible without economic injury or cost to the holders of such rights.

(Pub. L. 90–537, title III, § 304, Sept. 30, 1968, 82 Stat. 891; Pub. L. 102–575, title XXXVII, § 3710(k), Oct. 30, 1992, 106 Stat. 4751; Pub. L. 108–451, title II, § 212(d), Dec. 10, 2004, 118 Stat. 3528.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1), (f)(1), was in the original ''this Act'', meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 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.

The Boulder Canyon Project Act, referred to in subsec. (c), is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§ 617 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 617t of this title and Tables.

CODIFICATION

Subsec. (g) of this section, which restricted the use of water from the projects authorized by this chapter for the production of basic agricultural commodities on newly irrigated lands for a period of ten years from Sept. 30, 1968, was omitted.

AMENDMENTS

2004—Subsec. (f)(1). Pub. L. 108–451, § 212(d)(1), added par. (1) and struck out former par. (1) which read as follows: ''In the operation of the Central Arizona Project, the Secretary shall offer to contract with water users in New Mexico for water from the Gila River, its tributaries and underground water sources in amounts that will permit consumptive use of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of eighteen thousand acre-feet, including reservoir evaporation, over and above the consumptive uses provided for by article IV of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340). Such increased consumptive uses shall not begin until, and shall continue only so long as, delivery of Colorado River water to downstream Gila River users in Arizona is being accomplished in accordance with this chapter, in quantities sufficient to replace any diminution of their supply resulting from such diversion from the Gila River, its tributaries and underground water sources. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.''

Subsec. (f)(2), (3). Pub. L. 108–451, § 212(d)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''The Secretary shall further offer to contract with water users in New Mexico for water from the Gila River, its tributaries, and underground water sources in amounts that will permit consumptive uses of water in New Mexico of not to exceed an annual average in any period of ten consecutive years of an additional thirty thousand acre-feet, including reservoir evaporation. Such further increases in consumptive use shall not begin until, and shall continue only so long as, works capable of augmenting the water supply of the Colorado River system have been completed and water sufficiently in excess of two million eight hundred thousand acre-feet per annum is available from the main stream of the Colorado River for consumptive use in Arizona to provide water for the exchanges herein authorized and provided. In determining the amount required for this purpose full consideration shall be given to any differences in the quality of the waters involved.''

1992—Subsec. (c)(3). Pub. L. 102–575 repealed cl. (3) which read as follows: ''neither the contractor nor the Secretary shall pump or permit others to pump ground water from within the exterior boundaries of the service area of a contractor receiving water from the Central Arizona Project for any use outside said contractor's service area unless the Secretary and such contractor shall agree, or shall have previously agreed, that a surplus of ground water exists and that drainage is or was required.''

TRANSPORTATION OF WATER PUMPED WITHIN BOUNDARY

Section 3710(k) of Pub. L. 102–575 provided in part that: ''This subsection [amending this section] does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391) [see Short Title note set out under section 371 of this title], as amended and supplemented, across project boundaries.''

[1] So in original.

### § 1525. Cost of main stream water of Colorado River

To the extent that the flow of the main stream of the Colorado River is augmented in order to make sufficient water available for release, as determined by the Secretary pursuant to article II(b)(1) of the decree of the Supreme Court of the United States in Arizona against California (376 U.S. 340), to satisfy annual consumptive use of two million eight hundred thousand acre-feet in Arizona, four million four hundred thousand acre-feet in California, and three hundred thousand acre-feet in Nevada, respectively, the Secretary shall make such water available to users of main stream water in those States at the same costs (to the extent that such costs can be made comparable through the nonreimbursable allocation to the replenishment of the deficiencies occasioned by satisfaction of the Mexican Treaty burden as herein provided and financial assistance from the development fund established by section 1543 of this title) and on the same terms as would be applicable if main stream water were available for release in the quantities required to supply such consumptive use.

(Pub. L. 90–537, title III, § 305, Sept. 30, 1968, 82 Stat. 893.)

### § 1526. Water salvage programs

The Secretary shall undertake programs for water salvage and ground water recovery along and adjacent to the main stream of the Colorado River. Such programs shall be consistent with maintenance of a reasonable degree of undistributed habitat for fish and wildlife in the area, as determined by the Secretary.

(Pub. L. 90–537, title III, § 306, Sept. 30, 1968, 82 Stat. 893.)

### § 1527. Fish and wildlife conservation and development

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the project works authorized pursuant to this subchapter shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) [16 U.S.C. 460*l*–12 et seq.], except as provided in section 1522 of this title.

(Pub. L. 90–537, title III, § 308, Sept. 30, 1968, 82 Stat. 893.)

REFERENCES IN TEXT

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of Title 16 and Tables.

### § 1528. Authorization of appropriations

(a) There is hereby authorized to be appropriated for construction of the Central Arizona Project, including prepayment for power generation and transmission facilities but exclusive of distribution and drainage facilities for non-Indian lands, $832,180,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein and, in addition thereto, such sums as may be required for operation and maintenance of the project.

(b) There is also authorized to be appropriated $100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from September 30, 1968: *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities. Notwithstanding the provisions of section 1543 of this title, neither appropriations made pursuant to the authorization contained in this subsection nor revenues collected in connection with the operation of such facilities shall be credited to the Lower Colorado River Basin Development Fund and payments shall not be made from that fund to the general fund of the Treasury to return any part of the costs of construction, operation, and maintenance of such facilities.

(Pub. L. 90–537, title III, § 309, Sept. 30, 1968, 82 Stat. 893; Pub. L. 97–373, Dec. 20, 1982, 96 Stat. 1817.)

AMENDMENTS

1983—Subsec. (b). Pub. L. 97–373 substituted ''There is also authorized to be appropriated $100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from September 30, 1968: *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 per centum of the total cost of such facilities during the construction of such facilities'' for ''There is also authorized to be appropriated $100,000,000 for construction of distribution and drainage facilities for non-Indian lands''.

## SUBCHAPTER IV—LOWER COLORADO RIVER BASIN DEVELOPMENT FUND

### § 1541. Allocation of costs; repayment

Upon completion of each lower basin unit of the project herein or hereafter authorized, or separate feature thereof, the Secretary shall allocate the total costs of constructing said unit or features to (1) commercial power, (2) irrigation, (3) municipal and industrial water supply, (4) flood control, (5) navigation, (6) water quality control, (7) recreation, (8) fish and wildlife, (9) the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by performance of the Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), and (10) any other purposes authorized under the Federal reclamation laws. Costs of construction, operation, and maintenance allocated to the replenishment of the depletion of Colorado River flows available for use in the United States occasioned by

compliance with the Mexican Water Treaty (including losses in transit, evaporation from regulatory reservoirs, and regulatory losses at the Mexican boundary, incurred in the transportation, storage, and delivery of water in discharge of the obligations of that treaty) shall be nonreimbursable: *Provided*, That the nonreimbursable allocation shall be made on a pro rata basis to be determined by the ratio between the amount of water required to comply with the Mexican Water Treaty and the total amount of water by which the Colorado River is augmented pursuant to the investigations authorized subchapter II of this chapter and any future Congressional authorization. The repayment of costs allocated to recreation and fish and wildlife enhancement shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213) [16 U.S.C. 460*l*–12 et seq.]: *Provided*, That all of the separable and joint costs allocated to recreation and fish and wildlife enhancement as a part of the Dixie project, Utah, shall be nonreimbursable. Costs allocated to nonreimbursable purposes shall be nonreturnable under the provisions of this chapter.

(Pub. L. 90–537, title IV, § 401, Sept. 30, 1968, 82 Stat. 894.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in par. (10), are identified in section 1554 of this title.

The Federal Water Project Recreation Act, referred to in text, is Pub. L. 89–72, July 9, 1965, 79 Stat. 213, as amended, which is classified principally to part C (§ 460*l*–12 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–12 of Title 16 and Tables.

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 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.

### § 1542. Repayment capability of Indian lands

The Secretary shall determine the repayment capability of Indian lands within, under, or served by any unit of the project. Construction costs allocated to irrigation of Indian lands (including provision of water for incidental domestic and stock water uses) and within the repayment capability of such lands shall be subject to section 386a of title 25, and such costs that are beyond repayment capability of such lands shall be nonreimbursable.

(Pub. L. 90–537, title IV, § 402, Sept. 30, 1968, 82 Stat. 894.)

### § 1543. Lower Colorado River Basin Development Fund

**(a) Establishment**

There is hereby established a separate fund in the Treasury of the United States to be known as the Lower Colorado River Basin Development Fund (hereafter called the ''development fund''), which shall remain available until expended as hereafter provided.

**(b) Appropriations**

(1) All appropriations made for the purpose of carrying out the provisions of subchapter III of this chapter shall be credited to the development fund as advances from the general fund of the Treasury, and shall be available for such purpose.

(2) Except as provided in section 1528(b) of this title, sums advanced by non-Federal entities for the purpose of carrying out the provisions of subchapter III of this chapter shall be credited to the development fund and shall be available without further appropriation for such purpose.

**(c) Revenues credited to fund**

There shall also be credited to the development fund—

(1) all revenues collected in connection with the operation of facilities authorized in subchapter III of this chapter in furtherance of the purposes of this chapter (except entrance, admission, and other recreation fees or charges and proceeds received from recreation concessionaires), until completion of repayment requirements of the Central Arizona project;

(2) any Federal revenues from the Boulder Canyon and Parker-Davis projects which, after completion of repayment requirements of the said Boulder Canyon and Parker-Davis projects, are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of those projects: *Provided, however*, That for the Boulder Canyon project commencing June 1, 1987, and for the Parker-Davis project commencing June 1, 2005, and until the end of the repayment period for the Central Arizona project described in section 1521(a) of this title, the Secretary of Energy shall provide for surplus revenues by including the equivalent of 4½ mills per kilowatthour in the rates charged to purchasers in Arizona for application to the purposes specified in subsection (f) of this section and by including the equivalent 2½ mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented: *Provided further*, That after the repayment period for said Central Arizona project, the equivalent of 2½ mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of said subsection (g) of this section: *Provided, however*, That the Secretary is authorized and directed to continue the in-lieu-of-tax payments to the States of Arizona and Nevada provided for in section 618a(c) of this title so long as revenues accrue from the operation of the Boulder Canyon project; and

(3) any Federal revenues from that portion of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona which, after completion of repayment requirements of the said part of the Pacific Northwest-Pacific Southwest intertie located in the States of Nevada and Arizona, are sur-

plus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said portion of the Pacific Northwest-Pacific Southwest intertie and related facilities.

**(d) Use of revenue funds**

All moneys collected and credited to the development fund pursuant to subsection (b) and clauses (1) and (3) of subsection (c) of this section and the portion of revenues derived from the sale of power and energy for use in Arizona pursuant to clause (2) of subsection (c) of this section shall be available, without further appropriation, for—

(1) defraying the costs of operation, maintenance, and replacements of, and emergency expenditures for, all facilities of the projects, within such separate limitations as may be included in annual appropriation Acts; and

(2) payments to reimburse water users in the State of Arizona for losses sustained as a result of diminution of the production of hydroelectric power at Coolidge Dam, Arizona, resulting from exchanges of water between users in the States of Arizona and New Mexico as set forth in section 1524(f) of this title.

**(e) Appropriation by Congress required for construction of works**

Except as provided in subsection (f) of this section, revenues credited to the development fund shall not be available for construction of the works comprised within any unit of the project herein or hereafter authorized except upon appropriation by the Congress.

**(f) Additional uses of revenue funds**

**(1) Crediting against Central Arizona Water Conservation District payments**

Funds credited to the development fund pursuant to subsection (b) of this section and paragraphs (1) and (3) of subsection (c) of this section, the portion of revenues derived from the sale of power and energy for use in the State of Arizona pursuant to subsection (c)(2) of this section in excess of the amount necessary to meet the requirements of paragraphs (1) and (2) of subsection (d) of this section, and any annual payment by the Central Arizona Water Conservation District to effect repayment of reimbursable Central Arizona Project construction costs, shall be credited annually against the annual payment owed by the Central Arizona Water Conservation District to the United States for the Central Arizona Project.

**(2) Further use of revenue funds credited against payments of Central Arizona Water Conservation District**

After being credited in accordance with paragraph (1), the funds and portion of revenues described in that paragraph shall be available annually, without further appropriation, in order of priority—

(A) to pay annually the fixed operation, maintenance, and replacement charges associated with the delivery of Central Arizona Project water held under long-term contracts for use by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act) in accordance with clause 8(d)(i)(1)(i) of the Repayment Stipulation (as defined in section 2 of the Arizona Water Settlements Act);

(B) to make deposits, totaling $53,000,000 in the aggregate, in the Gila River Indian Community Water OM&R Trust Fund established by section 208 of the Arizona Water Settlements Act;

(C) to pay $147,000,000 for the rehabilitation of the San Carlos Irrigation Project, of which not more than $25,000,000 shall be available annually consistent with attachment 6.5.1 of exhibit 20.1 of the Gila River agreement, except that the total amount of $147,000,000 shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

(D) in addition to amounts made available for the purpose through annual appropriations, as reasonably allocated by the Secretary without regard to any trust obligation on the part of the Secretary to allocate the funding under any particular priority and without regard to priority (except that payments required by clause (i) shall be made first)—

(i) to make deposits totaling $66,000,000, adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit, into the New Mexico Unit Fund as provided by section 212(i) of the Arizona Water Settlements Act in 10 equal annual payments beginning in 2012;

(ii) upon satisfaction of the conditions set forth in subsections (j) and (k) of section 212, to pay certain of the costs associated with construction of the New Mexico Unit, in addition to any amounts that may be expended from the New Mexico Unit Fund, in a minimum amount of $34,000,000 and a maximum amount of $62,000,000, as provided in section 212 of the Arizona Water Settlements Act, as adjusted to reflect changes since January 1, 2004, in the construction cost indices applicable to the types of construction involved in construction of the New Mexico Unit;

(iii) to pay the costs associated with the construction of distribution systems required to implement the provisions of—

(I) the contract entered into between the United States and the Gila River Indian Community, numbered 6–07–03–W0345, and dated July 20, 1998;

(II) section 3707(a)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4747); and

(III) section 304 of the Southern Arizona Water Rights Settlement Amendments Act of 2004;

(iv) to pay $52,396,000 for the rehabilitation of the San Carlos Irrigation Project as provided in section 203(d)(4) of the Arizona Water Settlements Act, of which not more than $9,000,000 shall be available annually, except that the total amount of $52,396,000

shall be increased or decreased, as appropriate, based on ordinary fluctuations since January 1, 2000, in construction cost indices applicable to the types of construction involved in the rehabilitation;

(v) to pay other costs specifically identified under—

(I) sections 213(g)(1) and 214 of the Arizona Water Settlements Act; and

(II) the Southern Arizona Water Rights Settlement Amendments Act of 2004;

(vi) to pay a total of not more than $250,000,000 to the credit of the Future Indian Water Settlement Subaccount of the Lower Colorado Basin Development Fund, for use for Indian water rights settlements in Arizona approved by Congress after the date of enactment of this Act, subject to the requirement that, notwithstanding any other provision of this chapter, any funds credited to the Future Indian Water Settlement Subaccount that are not used in furtherance of a congressionally approved Indian water rights settlement in Arizona by December 31, 2030, shall be returned to the main Lower Colorado Basin Development Fund for expenditure on authorized uses pursuant to this chapter, provided that any interest earned on funds held in the Future Indian Water Settlement Subaccount shall remain in such subaccount until disbursed or returned in accordance with this section;

(vii) to pay costs associated with the installation of gages on the Gila River and its tributaries to measure the water level of the Gila River and its tributaries for purposes of the New Mexico Consumptive Use and Forbearance Agreement in an amount not to exceed $500,000; and

(viii) to pay the Secretary's costs of implementing the Central Arizona Project Settlement Act of 2004;

(E) in addition to amounts made available for the purpose through annual appropriations—

(i) to pay the costs associated with the construction of on-reservation Central Arizona Project distribution systems for the Yavapai Apache (Camp Verde), Tohono O'odham Nation (Sif Oidak District), Pascua Yaqui, and Tonto Apache tribes; and

(ii) to make payments to those tribes in accordance with paragraph 8(d)(i)(1)(iv) of the repayment stipulation (as defined in section 2 of the Arizona Water Settlements Act), except that if a water rights settlement Act of Congress authorizes such construction, payments to those tribes shall be made from funds in the Future Indian Water Settlement Subaccount; and

(F) if any amounts remain in the development fund at the end of a fiscal year, to be carried over to the following fiscal year for use for the purposes described in subparagraphs (A) through (E).

**(3) Revenue funds in excess of revenue funds credited against Central Arizona Water Conservation District payments**

The funds and portion of revenues described in paragraph (1) that are in excess of amounts credited under paragraph (1) shall be available, on an annual basis, without further appropriation, in order of priority—

(A) to pay annually the fixed operation, maintenance and replacement charges associated with the delivery of Central Arizona Project water under long-term contracts held by Arizona Indian tribes (as defined in section 2 of the Arizona Water Settlements Act);

(B) to make the final outstanding annual payment for the costs of each unit of the projects authorized under subchapter III of this chapter that are to be repaid by the Central Arizona Water Conservation District;

(C) to reimburse the general fund of the Treasury for fixed operation, maintenance, and replacement charges previously paid under paragraph (2)(A);

(D) to reimburse the general fund of the Treasury for costs previously paid under subparagraphs (B) through (E) of paragraph (2);

(E) to pay to the general fund of the Treasury the annual installment on any debt relating to the Central Arizona Project under section 485h(d) of this title, made nonreimbursable under section 106(b) of the Arizona Water Settlements Act;

(F) to pay to the general fund of the Treasury the difference between—

(i) the costs of each unit of the projects authorized under subchapter III of this chapter that are repayable by the Central Arizona Water Conservation District; and

(ii) any costs allocated to reimbursable functions under any Central Arizona Project cost allocation undertaken by the United States; and

(G) for deposit in the general fund of the Treasury.

**(4) Investment of amounts**

**(A) In general**

The Secretary of the Treasury shall invest such portion of the development fund as is not, in the judgment of the Secretary of the Interior, required to meet current needs of the development fund.

**(B) Permitted investments**

**(i) In general**

Notwithstanding any other provision of law, including any provision requiring the consent or concurrence of any party, the investments referred to in subparagraph (A) shall include 1 or more of the following:

(I) Any investments referred to in the Act of June 24, 1938 (25 U.S.C. 162a).

(II) Investments in obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are

lawful investments for federally managed funds.

(III) The obligations referred to in section 401 of title 42.

**(ii) Lawful investments**

For purposes of clause (i), obligations of government corporations and government-sponsored entities whose charter statutes provide that their obligations are lawful investments for federally managed funds includes any of the following securities or securities with comparable language concerning the investment of federally managed funds:

(I) Obligations of the United States Postal Service as authorized by section 2005 of title 39.

(II) Bonds and other obligations of the Tennessee Valley Authority as authorized by section 831n–4 of title 16.

(III) Mortgages, obligations, or other securities of the Federal Home Loan Mortgage Corporation as authorized by section 1452 of title 12.

(IV) Bonds, notes, or debentures of the Commodity Credit Corporation as authorized by section 4 of the Act of March 4, 1939[1] (15 U.S.C. 713a–4).

**(C) Acquisition of obligations**

For the purpose of investments under subparagraph (A), obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

**(D) Sale of obligations**

Any obligation acquired by the development fund may be sold by the Secretary of the Treasury at the market price.

**(E) Credits to fund**

The interest on, and the proceeds from the sale or redemption of, any obligations held in the development fund shall be credited to and form a part of the development fund.

**(5) Amounts not available for certain Federal obligations**

None of the provisions of this section, including paragraphs (2)(A) and (3)(A), shall be construed to make any of the funds referred to in this section available for the fulfillment of any Federal obligation relating to the payment of OM&R charges if such obligation is undertaken pursuant to Public Law 95–328, Public Law 98–530, or any settlement agreement with the United States (or amendments thereto) approved by or pursuant to either of those acts.

**(g) Repayment of costs**

All revenues credited to the development fund in accordance with subsection (c)(2) of this section (excluding only those revenues derived from the sale of power and energy for use in Arizona during the payout period of the Central Arizona Project as authorized herein) and such other revenues as remain in the development fund after making the payments required by subsections (d) and (f) of this section shall be available (1) to make payments, if any, as required by sections 616aa–1 and 620d–1 of this title, (2) for repayment to the general fund of the Treasury the costs of each salinity control unit or separable feature thereof[2] the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures payable from the Lower Colorado River Basin Development Fund in accordance with sections 1595(a)(2), 1595(a)(3), and 1595(b) of this title and (3) upon appropriation by the Congress, to assist in the repayment of reimbursable costs incurred in connection with units hereafter constructed to provide for the augmentation of the water supplies of the Colorado River for use below Lee Ferry as may be authorized as a result of the investigations and recommendations made pursuant to sections 1511 and 1513(a) of this title.

**(h) Interest rate**

The interest rate applicable to those portions of the reimbursable costs of each unit of the project which are properly allocated to commercial power development and municipal and industrial water supply shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which the first advance is made for initiating construction of such unit, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issue.

**(i) Annual budgets; submission to Congress**

Business-type budgets shall be submitted to the Congress annually for all operations financed by the development fund.

(Pub. L. 90–537, title IV, § 403, Sept. 30, 1968, 82 Stat. 894; Pub. L. 93–320, title II, § 205(b)(2), June 24, 1974, 88 Stat. 273; Pub. L. 98–381, title I, § 102, Aug. 17, 1984, 98 Stat. 1333; Pub. L. 98–569, § 4(f)(2), Oct. 30, 1984, 98 Stat. 2939; Pub. L. 108–451, title I, § 107(a), (c), Dec. 10, 2004, 118 Stat. 3493, 3498.)

REFERENCES IN TEXT

Sections 2, 106, 203, 208, 213, and 214 of the Arizona Water Settlements Act, referred to in subsec. (f)(2), (3), are sections 2 and 106 of title I, and sections 203, 208, 213, and 214 of title II, of Pub. L. 108–451, Dec. 10, 2004, 118 Stat. 3479, 3492, 3499, 3521, 3531, 3534, which are not classified to the Code.

Section 212 of the Arizona Water Settlements Act, referred to in subsec. (f)(2)(D)(i), (ii), is section 212 of Pub. L. 108–451, title II, Dec. 10, 2004, 118 Stat. 3527, which is not classified to the Code except for section 212(d), which amended section 1524 of this title.

Section 3707(a)(1) of the San Carlos Apache Tribe Water Rights Settlement Act of 1992, referred to in subsec. (f)(2)(D)(iii)(II), is section 3707(a)(1) of title XXXVII of Pub. L. 102–575, Oct. 30, 1992, 106 Stat. 4747, which is not classified to the Code.

The Southern Arizona Water Rights Settlement Amendments Act of 2004, referred to in subsec. (f)(2)(D)(iii)(III), (v)(II), is title III of Pub. L. 108–451, Dec. 10, 2004, 118 Stat. 3535, which is not classified to the Code.

The date of enactment of this Act, referred to in subsec. (f)(2)(D)(vi), probably means the date of enactment of Pub. L. 108–451, which enacted a new subsec. (f) of this section and was approved Dec. 10, 2004.

[1] See References in Text note below.

[2] So in original. Probably should be followed by a comma.

The Central Arizona Project Settlement Act of 2004, referred to in subsec. (f)(2)(D)(viii), is title I of Pub. L. 108–451, Dec. 10, 2004, 118 Stat. 3486. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1501 of this title and Tables.

Act of June 24, 1938, referred to in subsec. (f)(4)(B)(i)(I), is act June 24, 1938, ch. 648, 52 Stat. 1037, as amended, which enacted section 162a of Title 25, Indians, repealed section 162 of Title 25, and enacted provisions set out as a note under section 162a of Title 25. For complete classification of this Act to the Code, see Tables.

Section 4 of the Act of March 4, 1939, referred to in subsec. (f)(4)(B)(ii)(IV), probably should be a reference to section 4 of act March 8, 1938, as amended by act March 4, 1939, which is classified to section 713a–4 of Title 15, Commerce and Trade.

Public Law 95–328, referred to in subsec. (f)(5), is Pub. L. 95–328, July 28, 1978, 92 Stat. 409, which is not classified to the Code.

Public Law 98–530, referred to in subsec. (f)(5), is Pub. L. 98–530, Oct. 19, 1984, 98 Stat. 2698, which is not classified to the Code.

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–451, § 107(c)(2), substituted ''Except as provided in subsection (f) of this section, revenues'' for ''Revenues''.

Subsec. (f). Pub. L. 108–451, § 107(a), inserted heading and text and struck out former text relating to return of costs and interest.

Subsec. (g). Pub. L. 108–451, § 107(c)(1), substituted ''subsection (c)(2)'' for ''clause (c)(2)''.

1984—Subsec. (b). Pub. L. 98–381, § 102(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 98–381, § 102(b), substituted '', until completion of repayment requirements of the Central Arizona project.'' for ''including revenues which, after completion of payout of the Central Arizona Project as required herein are surplus, as determined by the Secretary, to the operation, maintenance, and replacement requirements of said project;''.

Subsec. (c)(2). Pub. L. 98–381, § 102(c), inserted two provisos, the first relating to the inclusion of the equivalent of 4½ mills per kilowatthour in the rates charged to purchasers in Arizona for application to the purposes specified in subsection (f) of this section and to the inclusion of the equivalent 2½ mills per kilowatthour in the rates charged to purchasers in California and Nevada for application to the purposes of subsection (g) of this section as amended and supplemented, and the second providing that, after the repayment period for said Central Arizona project, the equivalent of 2½ mills per kilowatthour shall be included by the Secretary of Energy in the rates charged to purchasers in Arizona, California, and Nevada to provide revenues for application to the purposes of said subsection (g) of this section.

Subsec. (g). Pub. L. 98–569 inserted ''the costs of measures to replace incidental fish and wildlife values foregone, and the costs of on-farm measures'' before ''payable from''.

1974—Subsec. (g). Pub. L. 93–320 added cl. (2). Existing cl. (2), authorizing the use of revenues to assist in the repayment of reimbursable costs incurred in connection with units constructed after Sept. 30, 1968, to provide for the augmentation of water supplies of the Colorado River for use below Lee Ferry, redesignated (3).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under subsec. (i) of this section is listed as the 7th item on page 114), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

LIMITATION ON FUNDS

Pub. L. 108–451, title I, § 107(b), Dec. 10, 2004, 118 Stat. 3498, provided that: ''Amounts made available under the amendment made by subsection (a) [amending this section]—

''(1) shall be identified and retained in the Lower Colorado River Basin Development Fund established by section 403 of the Colorado River Basin Project Act (43 U.S.C. 1543); and

''(2) shall not be expended or withdrawn from that fund until the later of—

''(A) the date on which the findings described in section 207(c) [118 Stat. 3519] are published in the Federal Register; or

''(B) January 1, 2010.''

PAYMENT FROM DEVELOPMENT FUND TO GENERAL FUND OF TREASURY

Pub. L. 108–447, div. C, title II, § 203, Dec. 8, 2004, 118 Stat. 2948, provided that:

''(a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–OHX–EHC (Consolidated Action)), and any amendment or revision thereof, is met.

''(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act [Dec. 8, 2004], payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

''(c) AUTHORIZATION.—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–137, title II, § 205, Dec. 1, 2003, 117 Stat. 1849.

Pub. L. 107–66, title II, § 204, Nov. 12, 2001, 115 Stat. 500.

## § 1544. Annual report to Congress

On January 1 of each year the Secretary shall report to the Congress, beginning with the fiscal year ending June 30, 1969, upon the status of the revenues from and the cost of constructing, operating, and maintaining each lower basin unit of the project for the preceding fiscal year. The report of the Secretary shall be prepared to reflect accurately the Federal investment allocated at that time to power, to irrigation, and to other purposes, the progress of return and repayment thereon, and the estimated rate of progress, year by year, in accomplishing full repayment.

(Pub. L. 90–537, title IV, § 404, Sept. 30, 1968, 82 Stat. 896.)

SUBCHAPTER V—GENERAL PROVISIONS

### § 1551. Construction of Colorado River Basin Act

#### (a) Effect on other laws

Nothing in this chapter shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California and others (376 U.S. 340), or, except as otherwise provided herein, the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.], the Boulder Canyon Project Adjustment Act (54 Stat. 774), [43 U.S.C. 618 et seq.], or the Colorado River Storage Project Act (70 Stat. 105) [43 U.S.C. 620 et seq.].

#### (b) Reports to Congress

The Secretary is directed to—

(1) make reports as to the annual consumptive uses and losses of water from the Colorado River system after each successive five-year period, beginning with the five-year period starting on October 1, 1970. Such reports shall include a detailed breakdown of the beneficial consumptive use of water on a State-by-State basis. Specific figures on quantities consumptively used from the major tributary streams flowing into the Colorado River shall also be included on a State-by-State basis. Such reports shall be prepared in consultation with the States of the lower basin individually and with the Upper Colorado River Commission, and shall be transmitted to the President, the Congress, and to the Governors of each State signatory to the Colorado River Compact; and

(2) condition all contracts for the delivery of water originating in the drainage basin of the Colorado River system upon the availability of water under the Colorado River Compact.

#### (c) Compliance of Federal officers and agencies

All Federal officers and agencies are directed to comply with the applicable provisions of this chapter, and of the laws, treaty, compacts, and decree referred to in subsection (a) of this section, in the storage and release of water from all reservoirs and in the operation and maintenance of all facilities in the Colorado River system under the jurisdiction and supervision of the Secretary, and in the operation and maintenance of all works which may be authorized hereafter for the augmentation of the water supply of the Colorado River system. In the event of failure of any such officer or agency to so comply, any affected State may maintain an action to enforce the provisions of this section in the Supreme Court of the United States and consent is given to the joinder of the United States as a party in such suit or suits, as a defendant or otherwise.

(Pub. L. 90–537, title VI, § 601, Sept. 30, 1968, 82 Stat. 899.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original "this Act", meaning Pub. L. 90–537, Sept. 30, 1968, 82 Stat. 885, as amended, known as the Colorado River Basin Project Act, which enacted this chapter and sections 616aa–1, 620a–1, 620a–2, 620c–1, and 620d–1 of this title, amended sections 616hh, 620, and 620a of this title, and enacted provisions set out as notes under sections 620, 620k, and 1501 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.

The Boulder Canyon Project Act, referred to in subsec. (a), is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§ 617 et seq.) of chapter 12A of this title. 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. (a), is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

The Colorado River Storage Project Act, referred to in subsec. (a), is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(1) of this section relating to the requirement that the Secretary transmit a report to Congress every five years, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 9th item on page 114 of House Document No. 103–7.

### § 1552. Criteria for long-range operation of reservoirs

#### (a) Promulgation by Secretary; order of priorities

In order to comply with and carry out the provisions of the Colorado River Compact, the Upper Colorado River Basin Compact, and the Mexican Water Treaty, the Secretary shall propose criteria for the coordinated long-range operation of the reservoirs constructed and operated under the authority of the Colorado River Storage Project Act [43 U.S.C. 620 et seq.], the Boulder Canyon Project Act [43 U.S.C. 617 et seq.], and the Boulder Canyon Project Adjustment Act [43 U.S.C. 618 et seq.]. To effect in part the purposes expressed in this paragraph, the criteria shall make provision for the storage of water in storage units of the Colorado River storage project and releases of water form Lake Powell in the following listed order of priority:

(1) releases to supply one-half the deficiency described in article III(c) of the Colorado River Compact, if any such deficiency exists and is chargeable to the States of the Upper Division, but in any event such releases, if any, shall not be required in any year that the Secretary makes the determination and issues the proclamation specified in section 1512 of this title;

(2) releases to comply with article III(d) of the Colorado River Compact, less such quantities of water delivered into the Colorado River below Lee Ferry to the credit of the States of the Upper Division from other sources; and

(3) storage of water not required for the releases specified in clauses (1) and (2) of this

subsection to the extent that the Secretary, after consultation with the Upper Colorado River Commission and representatives of the three Lower Division States and taking into consideration all relevant factors (including, but not limited to, historic stream-flows, the most critical period of record, and probabilities of water supply), shall find this to be reasonably necessary to assure deliveries under clauses (1) and (2) without impairment of annual consumptive uses in the upper basin pursuant to the Colorado River Compact: *Provided*, That water not so required to be stored shall be released from Lake Powell: (i) to the extent it can be reasonably applied in the States of the Lower Division to the uses specified in article III(e) of the Colorado River Compact, but no such releases shall be made when the active storage in Lake Powell is less than the active storage in Lake Mead, (ii) to maintain, as nearly as practicable, active storage in Lake Mead equal to the active storage in Lake Powell, and (iii) to avoid anticipated spills from Lake Powell.

**(b) Submittal of criteria for review and comment; publication; report to Congress**

Not later than January 1, 1970, the criteria proposed in accordance with the foregoing subsection (a) of this section shall be submitted to the Governors of the seven Colorado River Basin States and to such other parties and agencies as the Secretary may deem appropriate for their review and comment. After receipt of comments on the proposed criteria, but not later than July 1, 1970, the Secretary shall adopt appropriate criteria in accordance with this section and publish the same in the Federal Register. Beginning January 1, 1972, and yearly thereafter, the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report describing the actual operation under the adopted criteria for the preceding compact water year and the projected operation for the current year. As a result of actual operating experience or unforeseen circumstances, the Secretary may thereafter modify the criteria to better achieve the purposes specified in subsection (a) of this section, but only after correspondence with the Governors of the seven Colorado River Basin States and appropriate consultation with such State representatives as each Governor may designate.

**(c) Powerplant operations**

Section 7 of the Colorado River Storage Project Act [43 U.S.C. 620f] shall be administered in accordance with the foregoing criteria.

(Pub. L. 90–537, title VI, § 602, Sept. 30, 1968, 82 Stat. 900.)

REFERENCES IN TEXT

The Colorado River Storage Project Act, referred to in subsec. (a), is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

The Boulder Canyon Project Act, referred to in subsec. (a), is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§ 617 et seq.) of chapter 12A of this title. 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. (a), is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the requirement that the Secretary transmit an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 3rd item on page 113 of House Document No. 103–7.

## § 1553. Upper Colorado River Basin; rights to consumptive uses not to be reduced or prejudiced; duties and powers of Commission not impaired

(a) Rights of the upper basin to the consumptive use of water available to that basin from the Colorado River system under the Colorado River Compact shall not be reduced or prejudiced by any use of such water in the lower basin.

(b) Nothing in this chapter shall be construed so as to impair, conflict with, or otherwise change the duties and powers of the Upper Colorado River Commission.

(Pub. L. 90–537, title VI, § 603, Sept. 30, 1968, 82 Stat. 901.)

## § 1554. Federal reclamation laws

Except as otherwise provided in this chapter, in constructing, operating, and maintaining the units of the projects herein and hereafter authorized, the Secretary shall be governed by the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) to which laws this chapter shall be deemed a supplement.

(Pub. L. 90–537, title VI, § 604, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in text, is 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.

## § 1555. Federal Power Act inapplicable to Colorado River between Hoover Dam and Glen Canyon Dam

Part I of the Federal Power Act [16 U.S.C. 791a et seq.] shall not be applicable to the reaches of the main stream of the Colorado River between Hoover Dam and Glen Canyon Dam until and unless otherwise provided by Congress.

(Pub. L. 90–537, title VI, § 605, Sept. 30, 1968, 82 Stat. 901.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended. Part I of the Federal Power Act is classified generally to subchapter I (§ 791a et seq.) of chapter 12 of Title 16, Con-

servation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

### § 1556. Definitions

As used in this chapter, (a) all terms which are defined in the Colorado River Compact shall have the meanings therein defined;

(b) ''Main stream'' means the main stream of the Colorado River downstream from Lee Ferry within the United States, including the reservoirs thereon;

(c) ''User'' or ''water user'' in relation to main stream water in the lower basin means the United States or any person or legal entity entitled under the decree of the Supreme Court of the United States in Arizona against California, and others (376 U.S. 340), to use main stream water when available thereunder;

(d) ''Active storage'' means that amount of water in reservoir storage, exclusive of bank storage, which can be released through the existing reservoir outlet works;

(e) ''Colorado River Basin States'' means the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(f) ''Western United States'' means those States lying wholly or in part west of the Continental Divide; and

(g) ''Augment'' or ''augmentation'', when used herein with reference to water, means to increase the supply of the Colorado River or its tributaries by the introduction of water into the Colorado River system, which is in addition to the natural supply of the system.

(Pub. L. 90–537, title VI, § 606, Sept. 30, 1968, 82 Stat. 901.)

## CHAPTER 32A—COLORADO RIVER BASIN SALINITY CONTROL

SUBCHAPTER I—PROGRAMS DOWNSTREAM FROM IMPERIAL DAM

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SUBCHAPTER I—PROGRAMS DOWNSTREAM FROM IMPERIAL DAM

### § 1571. Water quality improvement

#### (a) Authority to proceed with program

The Secretary of the Interior, hereinafter referred to as the ''Secretary'', is authorized and directed to proceed with a program of works of improvement for the enhancement and protection of the quality of water available in the Colorado River for use in the United States and the Republic of Mexico, and to enable the United States to comply with its obligations under the agreement with Mexico of August 30, 1973 (Minute No. 242 of the International Boundary and Water Commission, United States and Mexico), concluded pursuant to the Treaty of February 3, 1944 (TS 994), in accordance with the provisions of this chapter.

#### (b) Desalting complexes and plants

(1) The Secretary is authorized to construct, operate, and maintain a desalting complex, including (1) a desalting plant to reduce the salinity of drain water from the Wellton-Mohawk division of the Gila project, Arizona (hereinafter referred to as the division), including a pretreatment plant for settling, softening, and filtration of the drain water to be desalted; (2) the necessary appurtenant works including the intake pumping plant system, product waterline, power transmission facilities, and permanent operating facilities; (3) the necessary extension in the United States and Mexico of the existing bypass drain to carry the reject stream from the desalting plant and other drainage waters to the Santa Clara Slough in Mexico, with the part in Mexico, subject to arrangements made pursuant to subsection (d) of this section; (4) replacement of the metal flume in the existing main outlet drain extension with a concrete siphon; (5) reduction of the quantity of irrigation return flows through acquisition of lands to reduce the size of the division, and irrigation efficiency improvements to minimize return flows; (6) acquire on behalf of the United States such lands or interest in lands in the Painted Rock Reservoir as may be necessary to operate the project in accordance with the obligations of Minute No. 242, and (7) all associated facilities including roads, railroad spur, and transmission lines.

(2)(A) The desalting plant shall be designed to treat approximately one hundred and twenty-nine million gallons a day of drain water using advanced technology commercially available. The plant shall effect recovery initially of not less than 70 per centum of the drain water as product water, and shall effect reduction of not less than 90 per centum of the dissolved solids in the feed water. The Secretary shall use sources of electric power supply for the desalting complex that will not diminish the supply of power to preference customers from Federal power systems operated by the Secretary.

(B) The Secretary is authorized to use electrical power and energy available from the Nav-

ajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to this subchapter: *Provided*, That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to this subchapter, and finally for other uses: *Provided further*, That prior to obtaining power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.

**(c) Replacement water studies**

Replacement of the reject stream from the desalting plant, Colorado River waters used for the mitigation of fish and wildlife habitat losses and of any Wellton-Mohawk drainage water bypassed to the Santa Clara Slough to accomplish essential operation except at such times when there exists surplus water of the Colorado River under the terms of the Mexican Water Treaty of 1944, is recognized as a national obligation as provided in section 1512 of this title. Studies to identify feasible measures to provide adequate replacement water shall be completed not later than June 30, 1980. Said studies shall be limited to potential sources within the States of Arizona, California, Colorado, New Mexico, and those portions of Nevada, Utah, and Wyoming which are within the natural drainage basin of the Colorado River. Measures found necessary to replace the reject stream from the desalting plant, Colorado River waters used for the mitigation of fish and wildlife habitat losses and any Wellton-Mohawk drainage bypassed to the Santa Clara Slough to accomplish essential operations may be undertaken independently of the national obligation set forth in section 1512 of this title.

**(d) Advancement of funds for that portion of bypass drain within Mexico**

The Secretary is hereby authorized to advance funds to the United States section, International Boundary and Water Commission (IBWC), for construction, operation, and maintenance by Mexico pursuant to Minute No. 242 of that portion of the bypass drain within Mexico. Such funds shall be transferred to an appropriate Mexican agency, under arrangements to be concluded by the IBWC providing for the construction, operation, and maintenance of such facility by Mexico.

**(e) Desalted water exchange**

Any desalted water not needed for the purposes of this subchapter may be exchanged at prices and under terms and conditions satisfactory to the Secretary and the proceeds therefrom shall be deposited in the General Fund of the Treasury. The city of Yuma, Arizona, shall have first right of refusal to any such water.

**(f) Return flow reduction**

For the purpose of reducing the return flows from the division to one hundred and seventy-five thousand acre-feet or less, annually, the Secretary is authorized to:

(1) Accelerate the cooperative program of Irrigation Management Services with the Wellton-Mohawk Irrigation and Drainage District, hereinafter referred to as the district, for the purpose of improving irrigation efficiency. The district shall bear its share of the cost of such program as determined by the Secretary.

(2) Acquire by purchase or through eminent domain or exchange, to the extent determined by him to be appropriate, lands or interests in lands to reduce the existing seventy-five thousand developed and undeveloped irrigable acres authorized by the Act of July 30, 1947 (61 Stat. 628), known as the Gila Reauthorization Act [43 U.S.C. 613 et seq.]. The initial reduction in irrigable acreage shall be limited to approximately ten thousand acres. If the Secretary determines that the irrigable acreage of the division must be reduced below sixty-five thousand acres of irrigable lands to carry out the purpose of this section, the Secretary is authorized, with the consent of the district, to acquire additional lands, as may be deemed by him to be appropriate.

**(g) Disposal of acquired lands**

The Secretary is authorized to dispose of the acquired lands and interests therein on terms and conditions satisfactory to him and meeting the objective of this chapter.

**(h) Assistance to water users for installation of system improvements**

The Secretary is authorized, either in conjunction with or in lieu of land acquisition, to assist water users in the division in installing system improvements, such as ditch lining, change of field layouts, automatic equipment, sprinkler systems and bubbler systems, as a means of increasing irrigation efficiencies: *Provided, however*, That all costs associated with the improvements authorized herein and allocated to the water users on the basis of benefits received, as

determined by the Secretary, shall be reimbursed to the United States in amounts and on terms and conditions satisfactory to the Secretary.

**(i) Contract amendment**

The Secretary is authorized to amend the contract between the United States and the district dated March 4, 1952, as amended, to provide that—

(1) the portion of the existing repayment obligation owing to the United States allocable to irrigable acreage eliminated from the division for the purposes of this subchapter, as determined by the Secretary, shall be nonreimbursable; and

(2) if deemed appropriate by the Secretary, the district shall be given credit against its outstanding repayment obligation to offset any increase in operation and maintenance assessments per acre which may result from the district's decreased operation and maintenance base, all as determined by the Secretary.

**(j) Acquisition of land for storage**

The Secretary is authorized to acquire through the Corps of Engineers fee title to, or other necessary interests in, additional lands above the Painted Rock Dam in Arizona that are required for the temporary storage capacity needed to permit operation of the dam and reservoir in times of serious flooding in accordance with the obligations of the United States under Minute No. 242. No funds shall be expended for acquisition of land or interests therein until it is finally determined by a Federal court of competent jurisdiction that the Corps of Engineers presently lacks legal authority to use said lands for this purpose. Nothing contained in this subchapter nor any action taken pursuant to it shall be deemed to be a recognition or admission of any obligation to the owners of such land on the part of the United States or a limitation or deficiency in the rights or powers of the United States with respect to such lands or the operation of the reservoir.

**(k) Transfer of funds**

To the extent desirable to carry out subsections (f)(1) and (h) of this section, the Secretary may transfer funds to the Secretary of Agriculture as may be required for technical assistance to farmers, conduct of research and demonstrations, and such related investigations as are required to achieve higher on-farm irrigation efficiencies.

**(*l*) Nonreimbursable costs**

All cost associated with the desalting complex shall be nonreimbursable except as provided in subsections (f) and (h) of this section.

(Pub. L. 93–320, title I, § 101, June 24, 1974, 88 Stat. 266; Pub. L. 96–336, §§ 1, 2, Sept. 4, 1980, 94 Stat. 1063.)

REFERENCES IN TEXT

Act of July 30, 1947 (61 Stat. 628), known as the Gila Reauthorization Act, referred to in subsec. (f)(2), is act July 30, 1947, ch. 382, 61 Stat. 628, which was classified generally to subchapter XXI (§ 613 et seq.) of chapter 12 of this title, and was omitted from the Code.

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96–336, § 1, designated existing provisions as subpar. (A), struck out requirement that all costs associated with the desalting plant be nonreimbursable, and added subpars. (B) and (C).

Subsec. (c). Pub. L. 96–336, § 2, included replacement water studies covering reject stream from the Colorado River waters used for the mitigation of fish and wildlife habitat losses.

SHORT TITLE

Section 1 of Pub. L. 93–320 provided: "That this Act [enacting this chapter and amending sections 620d and 1543 of this title] may be cited as the 'Colorado River Basin Salinity Control Act'."

## § 1572. Canal or canal lining

**(a) Authorization of construction**

To assist in meeting salinity control objectives of Minute No. 242 during an interim period, the Secretary is authorized to construct a new concrete-lined canal or, to line the presently unlined portion of the Coachella Canal of the Boulder Canyon project, California, from station 2 plus 26 to the beginning of siphon numbered 7, a length of approximately forty-nine miles. The United States shall be entitled to temporary use of a quantity of water, for the purpose of meeting the salinity control objectives of Minute No. 242, during an interim period, equal to the quantity of water conserved by constructing or lining the said canal. The interim period shall commence on completion of construction or lining said canal and shall end the first year that the Secretary delivers main stream Colorado River water to California in an amount less than the sum of the quantities requested by (1) the California agencies under contracts made pursuant to section 617d of this title, and (2) Federal establishments to meet their water rights acquired in California in accordance with the Supreme Court decree in Arizona against California (376 U.S. 340).

**(b) Repayment**

The charges for total construction shall be repayable without interest in equal annual installments over a period of forty years beginning in the year following completion of construction: *Provided*, That, repayment shall be prorated between the United States and the Coachella Valley County Water District, and the Secretary is authorized to enter into a repayment contract with Coachella Valley County Water District for that purpose. Such contract shall provide that annual repayment installments shall be nonreimbursable during the interim period, defined in subsection (a) of this section and shall provide that after the interim period, said annual repayment installments or portions thereof, shall be paid by Coachella Valley County Water District.

**(c) Acquisition of private lands**

The Secretary is authorized to acquire by purchase, eminent domain, or exchange private lands or interests therein, as may be determined by him to be appropriate, within the Imperial Irrigation District on the Imperial East Mesa which receive, or which have been granted rights to receive, water from Imperial Irrigation District's capacity in the Coachella Canal. Costs

of such acquisitions shall be nonreimbursable and the Secretary shall return such lands to the public domain. The United States shall not acquire any water rights by reason of this land acquisition.

**(d) Credit to Imperial Irrigation District against final payments for relinquished capacity in Coachella Canal**

The Secretary is authorized to credit Imperial Irrigation District against its final payments for certain outstanding construction charges payable to the United States on account of capacity to be relinquished in the Coachella Canal as a result of the canal lining program, all as determined by the Secretary: *Provided*, That, relinquishment of capacity shall not affect the established basis for allocating operation and maintenance costs of the main All-American Canal to existing contractors.

**(e) Transfer of lands to Cocopah Tribe of Indians**

The Secretary is authorized and directed to cede the following land to the Cocopah Tribe of Indians, subject to rights-of-way for existing levees, to be held in trust by the United States for the Cocopah Tribe of Indians:

Township 9 south, range 25 west of the Gila and Salt River meridian, Arizona;

Section 25: Lots 18, 19, 20, 21, 22, and 23;

Section 26: Lots 1, 12, 13, 14, and 15;

Section 27: Lot 3; and all accretion to the above described lands.

The Secretary is authorized and directed to construct three bridges, one of which shall be capable of accommodating heavy vehicular traffic, over the portion of the bypass drain which crosses the reservation of the Cocopah Tribe of Indians. The transfer of lands to the Cocopah Indian Reservation and the construction of bridges across the bypass drain shall constitute full and complete payment to said tribe for the rights-of-way required for construction of the bypass drain and electrical transmission lines for works authorized by this subchapter.

(Pub. L. 93–320, title I, § 102, June 24, 1974, 88 Stat. 268.)

**§ 1573. Construction and maintenance of well fields; land acquisition; land replacement; nonreimbursable costs**

(a) The Secretary is authorized to:

(1) Construct, operate, and maintain, consistent with Minute No. 242, well fields capable of furnishing approximately one hundred and sixty thousand acre-feet of water per year for use in the United States and for delivery to Mexico in satisfaction of the 1944 Mexican Water Treaty.

(2) Acquire by purchase, eminent domain, or exchange, to the extent determined by him to be appropriate, approximately twenty-three thousand five hundred acres of lands or interests therein with approximately five miles of the Mexican border on the Yuma Mesa: *Provided, however*, That any such lands which are presently owned by the State of Arizona may be acquired or exchanged for Federal lands.

(3) Any lands removed from the jurisdiction of the Yuma Mesa Irrigation and Drainage District pursuant to clause (2) of this subsection which were available for use under the Gila Reauthorization Act (61 Stat. 628) [43 U.S.C. 613 et. seq.], shall be replaced with like lands within or adjacent to the Yuma Mesa division of the project. In the development of these substituted lands or any other lands within the Gila project, the Secretary may provide for full utilization of the Gila Gravity Main Canal in addition to contracted capacities.

(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided*, That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 485h(c)(1) of this title, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands: *Provided further*, That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.

(b) The cost of work provided for in this section, including delivery of water to Mexico, shall be nonreimbursable; except to the extent that the waters furnished are used in the United States.

(Pub. L. 93–320, title I, § 103, June 24, 1974, 88 Stat. 269; Pub. L. 96–336, § 3, Sept. 4, 1980, 94 Stat. 1063.)

REFERENCES IN TEXT

The Gila Reauthorization Act, referred to in subsec. (a)(3), is act July 30, 1947, ch. 382, 61 Stat. 628, which was classified generally to subchapter XXI (§ 613 et seq.) of chapter 12 of this title, and was omitted from the Code.

Act of June 17, 1902, referred to in subsec. (a)(4), 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 IBWC, referred to in subsec. (a)(4), is identified in section 1571 of this title.

AMENDMENTS

1980—Subsec. (a)(4). Pub. L. 96–336 added par. (4).

**§ 1574. Modification of projects**

The Secretary is authorized to provide for modifications of the projects authorized by this

subchapter to the extent he determines appropriate for purposes of meeting the international settlement objective of this subchapter at the lowest overall cost to the United States. No funds for any such modification shall be expended until the expiration of sixty days after the proposed modification has been submitted to the appropriate committees of the Congress, unless the Congress approves an earlier date by concurrent resolution. The Secretary shall notify the Governors of the Colorado River Basin States of such modifications.

(Pub. L. 93–320, title I, § 104, June 24, 1974, 88 Stat. 270.)

### § 1575. Contract authority

The Secretary is authorized to enter into contracts that he deems necessary to carry out the provisions of this subchapter in advance of the appropriation of funds therefor.

(Pub. L. 93–320, title I, § 105, June 24, 1974, 88 Stat. 270.)

### § 1575a. Administration and disposition of lands and constructed facilities; revenues credited to general fund of Treasury

The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this subchapter, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.

(Pub. L. 93–320, title I, § 106, as added Pub. L. 96–336, § 4, Sept. 4, 1980, 94 Stat. 1064.)

PRIOR PROVISIONS

A prior section 106 of Pub. L. 93–320 was renumbered section 107 and is classified to section 1576 of this title.

### § 1576. Interagency cooperation

In carrying out the provisions of this subchapter, the Secretary shall consult and cooperate with the Secretary of State, the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and other affected Federal, State, and local agencies.

(Pub. L. 93–320, title I, § 107, formerly § 106, June 24, 1974, 88 Stat. 270; renumbered § 107, Pub. L. 96–336, § 4, Sept. 4, 1980, 94 Stat. 1064.)

PRIOR PROVISIONS

A prior section 107 of Pub. L. 93–320 was renumbered section 108 and is classified to section 1577 of this title.

### § 1577. Existing Federal laws not modified

Nothing in this chapter shall be deemed to modify the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or, except as expressly stated herein, the provisions of any other Federal law.

(Pub. L. 93–320, title I, § 108, formerly § 107, June 24, 1974, 88 Stat. 270; renumbered § 108, Pub. L. 96–336, § 4, Sept. 4, 1980, 94 Stat. 1064.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, 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 Federal Water Pollution Control Act, as amended, referred to in text, probably means act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

PRIOR PROVISIONS

A prior section 108 of Pub. L. 93–320 was renumbered section 109 and is classified to section 1578 of this title.

### § 1578. Authorization of appropriations

There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 1571, 1572, 1573, and 1579 of this title, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on January 1979, prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 1574 of this title. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: *Provided, however*, That no more than five percent of the amount authorized to be appropriated is used for these purposes. There is further authorized to be appropriated such sums as may be necessary to pay condemnation awards in excess of appraised values and to cover costs required in connection with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.].

(Pub. L. 93–320, title I, § 109, formerly § 108, June 24, 1974, 88 Stat. 270; renumbered § 109 and amended Pub. L. 96–336, §§ 4, 5, Sept. 4, 1980, 94 Stat. 1064.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in text, is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§ 4601 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 4601 of Title 42 and Tables.

AMENDMENTS

1980—Pub. L. 96–336, § 5, substituted appropriations authorization of $356,400,000 to carry out sections 1571, 1572, 1573, and 1579 of this title for prior authorizations of $121,500,000 and $34,000,000 for purposes of sections 1571 and 1572, and 1573 of this title, and use of January

1979 for April 1973 price basis, authorized sums of $3,579,000 and $6,960,000 for mitigation of fish and wildlife losses in California and Arizona, and provided for cost savings desalinization plant operations limited to five percent of appropriations authorization.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 5 of Pub. L. 96–336 provided that the amendment made by that section is effective Oct. 1, 1979.

### § 1579. Fish and wildlife habitat; mitigation of losses

Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate[1] Acts, in order to provide measures determined by the Secretary of the Interior to be appropriated to mitigate loss of fish and wildlife habitat associated with other measures taken under this subchapter:

**(a) Appropriation of funds; acquisition and disposal of lands; facilities undertakings; funds restriction for non-Federal facilities**

The Secretary is authorized to—

(1) acquire lands by purchase, eminent domain, or exchange;

(2) dispose of land, facilities, and equipment;

(3) construct, operate, maintain, and make replacements of facilities: *Provided*, *however*, That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities.

**(b) Nonreimbursable costs**

All costs authorized by this section are nonreimbursable.

(Pub. L. 93–320, title I, § 110, as added Pub. L. 96–336, § 6, Sept. 4, 1980, 94 Stat. 1064.)

### § 1580. Definitions

As used in this subchapter:

(a) Navajo Generating Station means—

(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.

(Pub. L. 93–320, title I, § 111, as added Pub. L. 96–336, § 7, Sept. 4, 1980, 94 Stat. 1065.)

[1] So in original. Probably should be ''appropriation''.

## SUBCHAPTER II—MEASURES UPSTREAM FROM IMPERIAL DAM

### § 1591. Salinity control policy

**(a) Implementation by Secretary of the Interior**

The Secretary of the Interior shall implement the salinity control policy adopted for the Colorado River in the ''Conclusions and Recommendations'' published in the Proceedings of the Reconvened Seventh Session of the Conference in the Matter of Pollution of the Interstate Waters of the Colorado River and Its Tributaries in the States of California, Colorado, Utah, Arizona, Nevada, New Mexico, and Wyoming, held in Denver, Colorado, on April 26–27, 1972, under the authority of section 10 of the Federal Water Pollution Control Act (33 U.S.C. 1160), and approved by the Administrator of the Environmental Protection Agency on June 9, 1972.

**(b) Expeditious investigation, planning, and implementation of salinity control program**

The Secretary is hereby directed to expedite the investigation, planning, and implementation of the salinity control program generally as described in chapter VI of the Secretary's report entitled, ''Colorado River Water Quality Improvement Program, February 1972''. In determining the relative priority of implementing additional units or new self-contained portions of units authorized by section 1592 of this title, the Secretary or the Secretary of Agriculture, as the case may be, shall give preference to those additional units or new self-contained portions of units which reduce salinity of the Colorado River at the least cost per unit of salinity reduction.

**(c) Cooperation with other Federal agencies**

In conformity with subsection (a) of this section and the authority of the Environmental Protection Agency under Federal laws, the Secretary, the Administrator of the Environmental Protection Agency, and the Secretary of Agriculture are directed to cooperate and coordinate their activities effectively to carry out the objective of this subchapter.

(Pub. L. 93–320, title II, § 201, June 24, 1974, 88 Stat. 270; Pub. L. 98–569, § 1, Oct. 30, 1984, 98 Stat. 2933.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act, referred to in subsec. (a), which was formerly classified to chapter 23 (§ 1151 et seq.) of Title 33, Navigation and Navigable Waters, was revised generally by Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816, and is classified generally to chapter 25 (§ 1251 et seq.) of Title 33.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98–569 inserted ''In determining the relative priority of implementing additional units or new self-contained portions of units authorized by section 1592 of this title, the Secretary or the Secretary of Agriculture, as the case may be, shall give preference to those additional units or new self-contained portions of units which reduce salinity of the Colorado River at the least cost per unit of salinity reduction.''.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 6 of Pub. L. 98–569 provided that: ''The amendments made by this Act [amending this section

and sections 620d, 1543, 1592, 1593, 1595, and 1598 of this title] shall take effect upon enactment of this Act [Oct. 30, 1984].''

### § 1592. Authorization to construct, operate, and maintain salinity control units and salinity control programs

#### (a) Authority of Secretary

The Secretary is authorized to construct, operate, and maintain the following salinity control units and salinity control programs as the initial stage of the Colorado River Basin salinity control program:

(1) The Paradox Valley unit, Montrose County, Colorado, consisting of facilities for collection and disposition of saline ground water of Paradox Valley, including wells, pumps, pipelines, solar evaporation ponds, and all necessary appurtenant and associated works such as roads, fences, dikes, power transmission facilities, and permanent operating facilities, and consisting of measures to replace incidental fish and wildlife values foregone.

(2) The Grand Valley unit, Colorado, consisting of measures and all necessary appurtenant and associated works to reduce the seepage of irrigation water from the irrigated lands of Grand Valley into the ground water and thence into the Colorado River. Measures shall include lining of canals and laterals, replacing canals and laterals with pipe, and the combining of existing canals and laterals into fewer and more efficient facilities implementing other measures to reduce salt contributions from the Grand Valley to the Colorado River, and implementing measures to replace incidental fish and wildlife values foregone..[1] Prior to initiation of construction of the Grand Valley unit, or portion thereof, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in Grand Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) of this section relating to the continued operation and maintenance of the unit's facilities to the end that the maximum reduction of salinity inflow to the Colorado River will be achieved.

(3) The Las Vegas Wash unit, Nevada, consisting of facilities for collection and disposition of saline ground water of Las Vegas Wash, including infiltration galleries, pumps, desalter, pipelines, solar evaporation facilities, and all appurtenant works including but not limited to roads, fences, power transmission facilities, and operating facilities, and consisting of measures to replace incidental fish and wildlife values foregone.

(4) Stage I of the Lower Gunnison Basin unit, Colorado, consisting of measures and all necessary appurtenant and associated works to reduce seepage from canals and laterals in the Uncompahgre Valley, and consisting of measures to replace incidental fish and wildlife values foregone, essentially as described in the feasibility report and final environmental statement dated February 10, 1984. Prior to initiation of construction of stage I of the Lower Gunnison Basin unit, or of a portion of stage I, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Uncompahgre Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) of this section relating to the continued operation and maintenance of the unit's facilities.

(5) Portions of the McElmo Creek unit, Colorado, as components of the Dolores participating project, Colorado River Storage project, authorized by Public Law 90–537 [43 U.S.C. 1501 et seq.] and Public Law 84–485 [43 U.S.C. 620 et seq.], consisting of all measures and all necessary appurtenant and associated works to reduce seepage only from the Towaoc-Highline combined canal, Rocky Ford laterals, Lone Pine lateral, and Upper Hermana lateral, and consisting of measures to replace incidental fish and wildlife values foregone. The Dolores participating project shall have salinity control as a project purpose insofar as these specific facilities are concerned: *Provided*, That the costs of construction and replacement of these specific facilities shall be allocated by the Secretary to salinity control and irrigation only after consultation with the State of Colorado, the Montezuma Valley Irrigation District, Colorado, and the Dolores Water Conservancy District, Colorado: *And provided further*, That such allocation of costs to salinity control will include only the separable and specific costs of these specific facilities and will not include any joint costs of any other facilities of the Dolores participating project. Repayment of costs allocated to salinity control shall be subject to this chapter. Repayment of costs allocated to irrigation shall be subject to the Acts which authorized the Dolores participating project, the Reclamation Act of 1902, and Acts amendatory and supplementary thereto. Prior to initiation of construction of these specific facilities, or a portion thereof, the Secretary shall enter into contracts through which the non-Federal entities owning, operating, and maintaining the water distribution systems, or portions thereof, in the Montezuma Valley, singly or in concert, will assume the obligations specified in subsection (b)(2) of this section relating to the continued operation and maintenance of the unit's facilities.

(6) A basinwide salinity control program that the Secretary, acting through the Bureau of Reclamation, shall implement. The Secretary may carry out the purposes of this paragraph directly, or may make grants, commitments for grants, or advances of funds to non-Federal entities under such terms and conditions as the Secretary may require. Such program shall consist of cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources that the Secretary considers appropriate. Such program shall provide for the mitigation of incidental fish and wildlife values that are lost as a result of the measures and associated works. The Secretary shall submit a planning report concerning the program established under this paragraph to the appropriate committees of Congress. The Secretary may not expend funds for any implementation measure under the pro-

[1] So in original.

gram established under this paragraph before the expiration of a 30-day period beginning on the date on which the Secretary submits such report.

(7) BASIN STATES PROGRAM.—

(A) IN GENERAL.—A Basin States Program that the Secretary, acting through the Bureau of Reclamation, shall implement to carry out salinity control activities in the Colorado River Basin using funds made available under section 1595(f) of this title.

(B) ASSISTANCE.—The Secretary, in consultation with the Colorado River Basin Salinity Control Advisory Council, shall carry out this paragraph using funds described in subparagraph (A) directly or by providing grants, grant commitments, or advance funds to Federal or non-Federal entities under such terms and conditions as the Secretary may require.

(C) ACTIVITIES.—Funds described in subparagraph (A) shall be used to carry out, as determined by the Secretary—

(i) cost-effective measures and associated works to reduce salinity from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources;

(ii) operation and maintenance of salinity control features constructed under the Colorado River Basin salinity control program; and

(iii) studies, planning, and administration of salinity control activities.

(D) REPORT.—

(i) IN GENERAL.—Not later than 30 days before implementing the program established under this paragraph, the Secretary shall submit to the appropriate committees of Congress a planning report that describes the proposed implementation of the program.

(ii) IMPLEMENTATION.—The Secretary may not expend funds to implement the program established under this paragraph before the expiration of the 30-day period beginning on the date on which the Secretary submits the report, or any revision to the report, under clause (i).

**(b) Implementation of authorized units**

In implementing the units authorized to be constructed pursuant to subsection (a) of this section, the Secretary shall carry out the following directions:

(1) As reports are completed describing final implementation plans for the unit, or any portion thereof, authorized by paragraph (5) of subsection (a) of this section, and prior to expenditure of funds for related construction activities, the Secretary shall submit such reports to the appropriate committees of the Congress and to the governors of the Colorado River Basin States.

(2) Non-Federal entities shall be required by the Secretary to contract for the long-term operation and maintenance of canal and lateral systems constructed pursuant to activities provided for in subsection (a) of this section: *Provided*, That the Secretary shall reimburse such non-Federal entities for the costs of such operation and maintenance to the extent the costs exceed the expenses that would have been incurred by them in the thorough and timely operation and maintenance of their canal and lateral systems absent the construction of a unit, said expenses to be determined by the Secretary after consultation with the involved non-Federal entities. The operation and maintenance for which non-Federal entities shall be responsible shall include such repairing and replacing of a unit's facilities as are associated with normal annual maintenance activities in order to keep such facilities in a condition which will assure maximum reduction of salinity inflow to the Colorado River. These non-Federal entities shall not be responsible, nor incur any costs, for the replacement of a unit's facilities, including measures to replace incidental fish and wildlife values foregone. The term replacement shall be defined for the purposes of this subchapter as a major modification or reconstruction of a completed unit, or portion thereof, which is necessitated, through no fault of the non-Federal entity or entities operating and maintaining a unit, by design or construction inadequacies or by normal limits on the useful life of a facility. The Secretary is authorized to provide continuing technical assistance to non-Federal entities to assure the effective and efficient operation and maintenance of a unit's facilities.

(3) The Secretary may, under authority of this subchapter, and limited to the purposes of this chapter, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts, a non-Federal entity to organize private canal and lateral owners into formal organizations with which the Secretary may enter into a grant or contract to construct, operate, and maintain a unit's facilities.

(4) In implementing the units authorized to be constructed or the programs pursuant to paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section, the Secretary shall comply with procedural and substantive State water laws.

(5) The Secretary may, under authority of this subchapter and limited to the purposes of this chapter, fund through a grant or contract, for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts, a non-Federal entity to operate and maintain measures to replace incidental fish and wildlife values foregone.

(6) In implementing the units authorized to be constructed pursuant to subsection (a) of this section, the Secretary shall implement measures to replace incidental fish and wildlife values foregone concurrently with the implementation of a unit's, or a portion of a unit's, related features.

**(c) Salinity control measures**

The Secretary of Agriculture shall carry out salinity control measures (including watershed enhancement and cost-share measures with livestock and crop producers) in the Colorado River Basin as part of the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 [16 U.S.C. 3839aa et seq.].

(Pub. L. 93–320, title II, § 202, June 24, 1974, 88 Stat. 271; Pub. L. 98–569, § 2, Oct. 30, 1984, 98 Stat. 2933; Pub. L. 104–20, § 1(1), (4), July 28, 1995, 109 Stat. 255, 256; Pub. L. 104–127, title III, § 336(c)(1), Apr. 4, 1996, 110 Stat. 1006; Pub. L. 110–234, title II, § 2806(a), (b)(1), May 22, 2008, 122 Stat. 1089; Pub. L. 110–246, § 4(a), title II, § 2806(a), (b)(1), June 18, 2008, 122 Stat. 1664, 1817.)

REFERENCES IN TEXT

Public Law 90–537, referred to in subsec. (a)(5), is act Sept. 30, 1968, 82 Stat. 885, as amended, popularly known as the ''Colorado River Basin Project Act'', which is classified principally to chapter 32 (§ 1501 et seq.) 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.

Public Law 84–485, referred to in subsec. (a)(5), is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, popularly known as the ''Colorado River Storage Project Act'', which is classified to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

The Reclamation Act of 1902, referred to in subsec. (a)(5), probably means 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 Food Security Act of 1985, referred to in subsec. (c), is Pub. L. 99–198, Dec. 23, 1985, 99 Stat. 1354, as amended. Chapter 4 of subtitle D of title XII of the Act is classified generally to part IV (§ 3839aa et seq.) of subchapter IV of chapter 58 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title of 1985 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–246, § 2806(b)(1)(A), which directed substitution of ''programs'' for ''program'' in introductory provisions, was executed by making the substitution the first time appearing to reflect the probable intent of Congress.

Subsec. (a)(7). Pub. L. 110–246, § 2806(a), added par. (7).

Subsec. (b)(4). Pub. L. 110–246, § 2806(b)(1)(B), substituted ''programs'' for ''program'' and ''(6), and (7)'' for ''and (6)''.

1996—Subsec. (c). Pub. L. 104–127 added subsec. (c) and struck out former subsec. (c) which authorized establishment of a voluntary cooperative salinity control program with landowners to improve on-farm water management and reduce watershed erosion on certain lands.

1995—Subsec. (a). Pub. L. 104–20, § 1(1), inserted ''and salinity control program'' after ''the following salinity control units'' and substituted colon for period in introductory provisions and added par. (6).

Subsec. (b)(4). Pub. L. 104–20, § 1(4), substituted ''or the program pursuant to paragraphs (1), (2), (3), (4), (5), and (6)'' for ''pursuant to paragraphs (1), (2), (3), (4), and (5)''.

1984—Subsec. (a). Pub. L. 98–569, § 2(a), designated existing provisions as subsec. (a).

Subsec. (a)(1). Pub. L. 98–569, § 2(b)(1), inserted '', and consisting of measures to replace incidental fish and wildlife values foregone'' at the end thereof.

Subsec. (a)(2). Pub. L. 98–569, § 2(b)(2), inserted ''replacing canals and laterals with pipe,'' after ''canals and laterals'' and inserted ''implementing other measures to reduce salt contributions from the Grand Valley to the Colorado River, and implementing measures to replace incidental fish and wildlife values foregone'' after ''efficient facilities'' in second sentence.

Pub. L. 98–569, § 2(b)(3), inserted '', or portions thereof,'' after ''Grand Valley unit'', substituted ''non-Federal entities'' for ''agencies'', inserted ''or portions thereof,'' after ''water distribution systems'' and substituted ''the obligations specified in subsection (b)(2) of this section'' for ''all obligations'' in third sentence.

Pub. L. 98–569, § 2(b)(4), struck out ''The Secretary is also authorized to provide, as an element of the Grand Valley unit, for a technical staff to provide information and assistance to water users on means and measures for limiting excess water applications to irrigated lands: *Provided*, That such assistance shall not exceed a period of five years after funds first become available under this subchapter. The Secretary will enter into agreements with the Secretary of Agriculture to develop a unified control plan for the Grand Valley unit. The Secretary of Agriculture is directed to cooperate in the planning and construction of on-farm system measures under programs available to that Department.''

Subsec. (a)(3). Pub. L. 98–569, § 2(b)(5), redesignated par. (4) as (3). Former par. (3), which related to the Crystal Geyser unit in Utah, was struck out.

Pub. L. 98–569, § 2(b)(6), substituted '', and consisting of measures to replace incidental fish and wildlife values foregone.'' for the period at the end thereof.

Subsec. (a)(4). Pub. L. 98–569, § 2(b)(7), added par. (4). Former par. (4) redesignated (3).

Subsec. (a)(5). Pub. L. 98–569, § 2(b)(7), added par. (5).

Subsecs. (b), (c). Pub. L. 98–569, § 2(c), added subsecs. (b) and (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

## § 1593. Planning reports; research and demonstration projects

(a) The Secretary is authorized and directed to—

(1) Expedite completion of the planning reports on the following units, described in the Secretary's report, ''Colorado River Water Quality Improvement Program, February 1972'';

(i) Irrigation source control:
Lower Gunnison
Uintah Basin
Colorado River Indian Reservation
Palo Verde Irrigation District

(ii) Point source control:
LaVerkin Springs
Littlefield Springs
Glenwood-Dotsero Springs

(iii) Diffuse source control:
Price River
San Rafael River
Dirty Devil River
McElmo Creek
Big Sandy River

(2) Submit each planning report on the units named in paragraph (1) of this subsection promptly to the Colorado River Basin States

and to such other parties as the Secretary deems appropriate for their review and comments. After receipt of comments on a unit and careful consideration thereof, the Secretary shall submit each final report with his recommendations, simultaneously, to the President, other concerned Federal departments and agencies, the Congress, and the Colorado River Basin States.

(b) The Secretary is directed—

(1) in the investigation, planning, construction, and implementation of any salinity control unit involving control of salinity from irrigation sources, to cooperate with the Secretary of Agriculture in carrying out research and demonstration projects and in implementing on-the-farm improvements and farm management practices and programs which will further the objective of this subchapter;

(2) to undertake research on additional methods for accomplishing the objective of this subchapter, utilizing to the fullest extent practicable the capabilities and resources of other Federal departments and agencies, interstate institutions, States, and private organizations;

(3) to develop a comprehensive program for minimizing salt contributions to the Colorado River from lands administered by the Bureau of Land Management and submit a report which describes the program and recommended implementation actions to the Congress and to the members of the advisory council established by section 1594(a) of this title by July 1, 1987;

(4) to undertake feasibility investigations of saline water use and disposal opportunities, including measures and all necessary appurtenant and associated works, to demonstrate saline water use technology and to beneficially use and dispose of saline and brackish waters of the Colorado River Basin in joint ventures with current and future industrial water users, using, but not limited to, the concepts generally described in the Bureau of Reclamation Special Report of September 1981, entitled ''Saline water use and disposal opportunities''; and

(5) to undertake advance planning activities on the Sinbad Valley Unit, Colorado, as described in the Bureau of Land Management Salinity Status Report, covering the period 1978–1979 and dated February 1980.

(Pub. L. 93–320, title II, § 203, June 24, 1974, 88 Stat. 271; Pub. L. 98–569, § 3, Oct. 30, 1984, 98 Stat. 2937.)

AMENDMENTS

1984—Subsec. (b)(3) to (5). Pub. L. 98–569 added pars. (3) to (5).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

### § 1594. Colorado River Basin Salinity Control Advisory Council

(a) There is created the Colorado River Basin Salinity Control Advisory Council composed of no more than three members from each State appointed by the Governor of each of the Colorado River Basin States.

(b) The Council shall be advisory only and shall—

(1) act as liaison between both the Secretaries of Interior and Agriculture and the Administrator of the Environmental Protection Agency and the States in accomplishing the purposes of this subchapter;

(2) receive reports from the Secretary on the progress of the salinity control program and review and comment on said reports; and

(3) recommend to both the Secretary and the Administrator of the Environmental Protection Agency appropriate studies of further projects, techniques, or methods for accomplishing the purposes of this subchapter.

(Pub. L. 93–320, title II, § 204, June 24, 1974, 88 Stat. 272.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 1595. Salinity control units; authority and functions of Secretary of the Interior

#### (a) Allocation of costs

The Secretary shall allocate the total costs (excluding costs borne by non-Federal participants) of the on-farm measures authorized by section 1592(c) of this title, of all measures to replace incidental fish and wildlife values foregone, and of each unit or separable feature thereof authorized by section 1592(a) of this title, as follows:

(1) In recognition of Federal responsibility for the Colorado River as an interstate stream and for international comity with Mexico, Federal ownership of the lands of the Colorado River Basin from which most of the dissolved salts originate, and the policy embodied in the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816) [33 U.S.C. 1251 et seq.], 75 per centum of the total costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 1592(a)(1), (2), and (3) of this title, including 75 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, 70 per centum of the total costs of construction, operation, maintenance, and replacement of each unit, or separable feature thereof authorized by paragraphs (4) through (6) of section 1592(a) of this title, including 70 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, and 70 per centum of the total costs of implementation of the on-farm measures authorized by section 1592(c) of this title, including 70 per centum of the total costs of the associated measures to replace incidental

fish and wildlife values foregone, shall be nonreimbursable. The total costs remaining after these allocations shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5),[1] of subsection (a) of this section[2]

(2) The reimbursable portion of the total costs shall be allocated between the Upper Colorado River Basin Fund established by section 5(a) of the Colorado River Storage Project Act (70 Stat. 107) [43 U.S.C. 620d(a)] and the Lower Colorado River Basin Development Fund established by section 1543(a) of this title, after consultation with the Advisory Council created in section 1594(a) of this title and consideration of the following items:

(i) benefits to be derived in each basin from the use of water of improved quality and the use of works for improved water management;

(ii) causes of salinity; and

(iii) availability of revenues in the Lower Colorado River Basin Development Fund and increased revenues to the Upper Colorado River Basin Fund made available under section 620d(d)(5) of this title: *Provided*, That costs allocated to the Upper Colorado River Basin Fund under this paragraph (2) shall not exceed 15 per centum of the costs allocated to the Upper Colorado River Basin Fund and the Lower Colorado River Basin Development Fund.

(3) Costs of construction and replacement of each unit or separable feature thereof authorized by sections[3] 1592(a)(1), (2), and (3) of this title and costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the units authorized by sections[3] 1592(a)(1), (2), and (3) of this title, allocated to the upper basin and to the lower basin under subsection (a)(2) of this section shall be repaid within a fifty-year period or within a period equal to the estimated life of the unit, separable feature thereof, or replacement, whichever is less, without interest from the date such unit, separable feature, or replacement is determined by the Secretary to be in operation.

(4)(i) Costs of construction and replacement of each unit or separable feature thereof authorized by paragraphs (4) through (6) of section 1592[4] of this title, costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the on-farm measures authorized by section 1592(c) of this title or of the units authorized by paragraphs (4) through (6) of section 1592[4] of this title, and costs of implementation of the on-farm measures authorized by section 1592(c) of this title allocated to the upper basin and to the lower basin under subsection (a)(2) of this section shall be repaid as provided in subparagraphs (ii) and (iii), respectively, of this paragraph.

(ii) Costs allocated to the upper basin shall be repaid with interest within a fifty-year period, or within a period equal to the estimated life of the unit, separable feature thereof, replacement, or on-farm measure, whichever is less, from the date such unit, separable feature thereof, replacement, or on-farm measure is determined by the Secretary or the Secretary of Agriculture to be in operation.

(iii) Costs allocated to the lower basin shall be repaid without interest as such costs are incurred to the extent that money is available from the Lower Colorado River Basin development fund to repay costs allocated to the lower basin. If in any fiscal year the money available from the Lower Colorado River Basin development fund for such repayment is insufficient to repay the costs allocated to the lower basin, as provided in the preceding sentence, the deficiency shall be repaid with interest as soon as money becomes available in the fund for repayment of those costs.

(iv) The interest rates used pursuant to this chapter 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 during the month preceding October 30, 1984, for costs outstanding at that date, or, in the case of costs incurred subsequent to October 30, 1984, during the month preceding the fiscal year in which the costs are incurred.

(5) Costs of operation and maintenance of each unit or separable feature thereof authorized by section 1592(a) of this title and of measures to replace incidental fish and wildlife values foregone allocated to the upper basin and to the lower basin under subsection (a)(2) of this section shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such costs are incurred. In the event that revenues are not available to repay the portion of operation and maintenance costs allocated to the Upper Colorado River Basin fund and to the Lower Colorado River Basin development fund in the year next succeeding the fiscal year in which such costs are incurred, the deficiency shall be repayed[5] with interest calculated in the same manner as provided in subsection (a)(4)(iv) of this section. Any reimbursement due non-Federal entities pursuant to section 1592(b)(2) of this title shall be repaid without interest in the fiscal year next succeeding the fiscal year in which such operation and maintenance costs are incurred.

**(b) Costs payable from Lower Colorado River Basin Development Fund**

(1) Costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 1592(a) of this title, costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 1592(c) of this title, allocated for repayment by the lower basin under subsection (a)(2) of this section shall be paid in accordance with section 1543(g)(2) of this title, from the Lower Colorado River Basin Development Fund.

(2) Omitted

[1] So in original. The comma probably should not appear.

[2] So in original. Probably should be followed by a period.

[3] So in original. Probably should be ''section''.

[4] So in original. Probably should be section ''1592(a)''.

[5] So in original.

**(c) Costs payable from Upper Colorado River Basin Fund**

Costs of construction, operation, maintenance, and replacement of each unit or separable feature thereof authorized by section 1592(a) of this title, costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 1592(c) of this title allocated for repayment by the upper basin under subsection (a)(2) of this section shall be paid in accordance with section 620d(d)(5) of this title from the Upper Colorado River Basin Fund within the limit of the funds made available under subsection (e) of this section.

**(d) Omitted**

**(e) Upward adjustment of rates for electrical energy**

The Secretary is authorized to make upward adjustments in rates charged for electrical energy under all contracts administered by the Secretary under the Colorado River Storage Project Act (70 Stat. 105; 43 U.S.C. 620) as soon as practicable and to the extent necessary to cover the costs allocated to the Upper Colorado River Basin Fund under subsection (a)(2) of this section and in conformity with subsection (a)(3), subsection (a)(4) and subsection (a)(5) of this section: *Provided*, That revenues derived from said rate adjustments shall be available solely for the construction, operation, maintenance, and replacement of salinity control units, for the construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and for the implementation of on-farm measures in the Colorado River Basin herein authorized.

**(f) Up-front cost share**

**(1) In general**

Effective beginning on the date of enactment of this paragraph, subject to paragraph (3), the cost share obligations required by this section shall be met through an up-front cost share from the Basin Funds, in the same proportions as the cost allocations required under subsection (a), as provided in paragraph (2).

**(2) Basin States Program**

The Secretary shall expend the required cost share funds described in paragraph (1) through the Basin States Program for salinity control activities established under section 1592(a)(7) of this title.

**(3) Existing salinity control activities**

The cost share contribution required by this section shall continue to be met through repayment in a manner consistent with this section for all salinity control activities for which repayment was commenced prior to the date of enactment of this paragraph.

(Pub. L. 93–320, title II, § 205, June 24, 1974, 88 Stat. 272; Pub. L. 98–569, § 4(a)–(f)(1), (g), (i), Oct. 30, 1984, 98 Stat. 2937–2939; Pub. L. 104–20, § 1(2), July 28, 1995, 109 Stat. 255; Pub. L. 104–127, title III, § 336(c)(2), Apr. 4, 1996, 110 Stat. 1006; Pub. L. 110–234, title II, § 2806(b)(2), May 22, 2008, 122 Stat. 1090; Pub. L. 110–246, § 4(a), title II, § 2806(b)(2), June 18, 2008, 122 Stat. 1664, 1818.)

REFERENCES IN TEXT

The Federal Water Pollution Control Act Amendments of 1972, referred to in subsec. (a)(1), is Pub. L. 92–500, Oct. 18, 1972, 86 Stat. 816, which is classified principally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title of 1972 Amendment note set out under section 1251 of Title 33 and Tables.

Section 620d(d)(5) of this title, referred to in subsec. (c), was in the original a reference to ''section 205(d) of this title'', meaning section 205(d) of title II of Pub. L. 93–320. Such section 205(d) amended section 5(d) of the Colorado River Storage Project Act by inserting a new par. (5), which is classified to section 620d(d)(5) of this title.

The Colorado River Storage Project Act, referred to in subsec. (d), is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

The date of enactment of this paragraph, referred to in subsec. (f)(1), (3), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section is comprised of section 205 of Pub. L. 93–320. Subsecs. (b)(2) and (d) of section 205 of Pub. L. 93–320 amended sections 620d and 1543 of this title.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–246, § 2806(b)(2), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: ''The Secretary may expend funds available in the Basin Funds referred to in this section to carry out cost-share salinity measures in a manner that is consistent with the cost allocations required under this section.''

1996—Subsec. (a). Pub. L. 104–127, § 336(c)(2)(A), struck out ''pursuant to section 1592(c)(2)(C) of this title'' after ''non-Federal participants'' in introductory provisions.

Subsec. (f). Pub. L. 104–127, § 336(c)(2)(B), added subsec. (f).

1995—Subsec. (a)(1). Pub. L. 104–20, § 1(2)(A), substituted ''authorized by paragraphs (4) through (6) of section 1592(a)'' for ''authorized by section 1592(a)(4) and (5)''.

Subsec. (a)(4)(i). Pub. L. 104–20, § 1(2)(B), substituted ''paragraphs (4) through (6) of section 1592'' for ''sections 1592(a)(4) and (5)'' in two places.

1984—Subsec. (a). Pub. L. 98–569, § 4(a), inserted ''(a)'' after ''section 1592'' and inserted ''(excluding costs borne by non-Federal participants pursuant to section 1592(c)(2)(C) of this title) of the on-farm measures authorized by section 1592(c) of this title, of all measures to replace incidental fish and wildlife values foregone, and'' after ''total costs''.

Subsec. (a)(1). Pub. L. 98–569, § 4(b), inserted ''authorized by section 1592(a)(1), (2), and (3) of this title, including 75 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, 70 per centum of the total costs of construction, operation, maintenance, and replacement of each unit, or separable feature thereof authorized by section 1592(a)(4) and (5) of this title, including 70 per centum of the total costs of construction, operation, and maintenance of the associated measures to replace incidental fish and wildlife values foregone, and 70 per centum of the total costs of implementation of the on-farm measures authorized by section 1592(c) of this title, in-

cluding 70 per centum of the total costs of the associated measures to replace incidental fish and wildlife values foregone,'' after ''shall be nonreimbursable'' and further inserted ''The total costs remaining after these allocations shall be reimbursable as provided for in paragraphs (2), (3), (4), and (5), of subsection (a) of this section'' at the end thereof.

Subsec. (a)(3). Pub. L. 98–569, § 4(d), substituted ''construction and replacement of each unit'' for ''construction, operation, maintenance, and replacement of each unit'' before ''or separable features thereof'', inserted ''authorized by sections 1592(a)(1), (2), and (3) of this title and costs of construction of measures to replace incidental fish and wildlife values foregone, when such measures are a part of the units authorized by sections 1592(a)(1), (2), and (3) of this title'' before ''allocated'', and inserted ''or within a period equal to the estimated life of the unit, separable feature thereof, or replacement, whichever is less,'' before ''without interest''.

Subsec. (a)(4), (5). Pub. L. 98–569, § 4(e), added pars. (4) and (5).

Subsec. (b). Pub. L. 98–569, § 4(f)(1), inserted ''authorized by section 1592(a) of this title, costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 1592(c) of this title,'' before ''allocated for repayment''.

Subsec. (c). Pub. L. 98–569, § 4(g), inserted ''authorized by section 1592(a) of this title, costs of construction, operation, and maintenance of measures to replace incidental fish and wildlife values foregone, and costs of implementation of the on-farm measures authorized by section 1592(c) of this title'' before ''allocated for''.

Subsec. (e). Pub. L. 98–569, § 4(i), struck out ''of construction, operation, maintenance, and replacement of units'' before ''allocated under'', inserted ''to the Upper Colorado River Basin Fund'' after ''allocated'', inserted '', subsection (a)(4) and subsection (a)(5) of this section'' after ''subsection (a)(3)'', and inserted '', for the construction, operation and maintenance of measures to replace incidental fish and wildlife values foregone, and for the implementation of on-farm measures'' after ''salinity control units''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

## § 1596. Biennial report to President, Congress, and Advisory Council

Commencing on January 1, 1975, and every two years thereafter, the Secretary shall submit, simultaneously, to the President, the Congress, and the Advisory Council created in section 1594(a) of this title, a report on the Colorado River salinity control program authorized by this subchapter covering the progress of investigations, planning, and construction of salinity control units for the previous fiscal year, the effectiveness of such units, anticipated work needed to be accomplished in the future to meet the objectives of this subchapter, with emphasis on the needs during the five years immediately following the date of each report, and any special problems that may be impeding progress in attaining an effective salinity control program. Said report may be included in the biennial report on the quality of water of the Colorado River Basin prepared by the Secretary pursuant to section 620n of this title, section 615ww of this title, and section 616e of this title.

(Pub. L. 93–320, title II, § 206, June 24, 1974, 88 Stat. 274.)

REFERENCES IN TEXT

Sections 615ww and 616e of this title, referred to in text, were omitted from the Code.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the Secretary submit a biennial report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 4th item on page 113 of House Document No. 103–7.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

## § 1597. Construction of provisions of subchapter

Except as provided in sections 620d(d)(5), 1543(g)(2), and 1595(b) of this title, with respect to the Colorado River Basin Project Act [43 U.S.C. 1501 et seq.] and the Colorado River Storage Project Act [43 U.S.C. 620 et seq.], respectively, nothing in this subchapter shall be construed to alter, amend, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 994; 59 Stat. 1219), the decree entered by the Supreme Court of the United States in Arizona against California and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.], Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a) [43 U.S.C. 618 et seq.], section 15 of the Colorado River Storage Project Act (70 Stat. 111; 43 U.S.C. 620n), the Colorado River Basin Project Act (82 Stat. 885), section 6 of the Fryingpan-Arkansas Project Act (76 Stat. 393) [43 U.S.C. 616e], section 15 of the Navajo Indian irrigation project and initial stage of the San Juan-Chama Project Act (76 Stat. 102) [43 U.S.C. 615ww], the National Environmental Policy Act

of 1969 [42 U.S.C. 4321 et seq.], and the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.].

(Pub. L. 93–320, title I, § 207, June 24, 1974, 88 Stat. 274.)

REFERENCES IN TEXT

Sections 620d(d)(5), 1543(g)(2), and 1595(b) of this title, referred to in text, was in the original a reference to ''section 205(b) and 205(d) of this title'', meaning section 205(b) and (d) of title II of Pub. L. 93–320. Section 205(b)(1) is classified to section 1595(b) of this title; section 205(b)(2) amended section 403(g) of the Colorado River Basis Project Act by inserting a new par. (2), which is classified to section 1543(g)(2) of this title; and section 205(d) amended section 5(d) of the Colorado River Storage Project Act by inserting a new par. (5), which is classified to section 620d(d)(5) of this title.

This subchapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 93–320, which enacted this subchapter and amended sections 1620d(d) and 1543(g) of this title. For complete classification of title II to the Code, see Tables.

The Colorado River Basin Project Act, referred to in text, 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. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

The Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), and the Water Treaty of 1944, referred to in text, are not classified to the Code.

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 chapter 12A of this title. 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 text, is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

Section 6 of the Fryingpan-Arkansas Project Act [43 U.S.C. 616e] and section 15 of the Navajo Indian irrigation project and initial stage of the San Juan-Chama Project Act [43 U.S.C. 615ww], referred to in text, were omitted from the Code.

The National Environmental Policy Act of 1969, referred to in text, 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 Federal Water Pollution Control Act, as amended, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92–500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

## § 1598. Achieving project objectives

### (a) Modification of projects

The Secretary is authorized to provide for modifications of the projects authorized by this subchapter as determined to be appropriate for purposes of meeting the objective of this subchapter. No funds for any such modification shall be expended until the expiration of sixty days after the proposed modification has been submitted to appropriate committees of the Congress, except that funds may be expended prior to the expiration of such sixty days in any case in which the Congress approves an earlier date by concurrent resolution. The Governors of the Colorado River Basin States shall be notified of these changes.

### (b) Contract authority; authorization of appropriations

The Secretary is hereby authorized to enter into contracts that he deems necessary to carry out the provisions of this subchapter, in advance of the appropriation of funds therefor. There is hereby authorized to be appropriated the sum of $125,100,000 for the construction of the works and for other purposes authorized in section 1592(a) or (b) of this title, based on April 1973 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations in costs involved therein, and such sums as may be required to operate and maintain such works. The funds authorized to be appropriated by this section may be used for construction of any or all of the works or portions thereof and for other purposes authorized in subsection (a) of this section, including measures as provided for in subsection (b) of section 1592 of this title. There is further authorized to be appropriated such sums as may be necessary to pay condemnation awards in excess of appraised values and to cover costs required in connection with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 4601 et seq.].

### (c) Implementation of basinwide salinity control program

In addition to the amounts authorized to be appropriated under subsection (b) of this section, there are authorized to be appropriated $175,000,000 for section 1592(a) of this title, including constructing the works described in paragraph (6) of section 1592(a) of this title and carrying out the measures described in such paragraph. Notwithstanding subsection (b) of this section, the Secretary may implement the program under section 1592(a)(6) of this title only to the extent and in such amounts as are provided in advance in appropriations Acts.

(Pub. L. 93–320, title II, § 208, June 24, 1974, 88 Stat. 274; Pub. L. 98–569, § 5, Oct. 30, 1984, 98 Stat. 2939; Pub. L. 104–20, § 1(3), July 28, 1995, 109 Stat. 256; Pub. L. 106–459, § 1, Nov. 7, 2000, 114 Stat. 1987.)

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (b), is Pub. L. 91–646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§ 4601 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 4601 of Title 42 and Tables.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–459, in first sentence, substituted ''$175,000,000 for section 1592(a) of this title''

for "$75,000,000 for subsection 1592(a) of this title" and "paragraph (6) of section 1592(a) of this title" for "paragraph 1592(a)(6) of this title" and, in second sentence, substituted "section 1592(a)(6) of this title" for "paragraph 1592(a)(6) of this title".

1995—Subsec. (c). Pub. L. 104–20 added subsec. (c).

1984—Subsec. (a). Pub. L. 98–569, § 5(a), struck out "and not then if disapproved by said committees" before ", except that funds may be expended".

Subsec. (b). Pub. L. 98–569, § 5(b)(1), inserted "(a) or (b)" after "1592".

Pub. L. 98–569, § 5(b)(2), inserted "The funds authorized to be appropriated by this section may be used for construction of any or all of the works or portions thereof and for other purposes authorized in subsection (a) of this section, including measures as provided for in subsection (b) of section 1592 of this title."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–569 effective Oct. 30, 1984, see section 6 of Pub. L. 98–569, set out as a note under section 1591 of this title.

### § 1599. Definitions

As used in this subchapter—

(a) all terms that are defined in the Colorado River Compact shall have the meanings therein defined;

(b) "Colorado River Basin States" means the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

(Pub. L. 93–320, title II, § 209, June 24, 1974, 88 Stat. 275.)

## CHAPTER 32B—COLORADO RIVER FLOODWAY


Sec.
1600. Findings and purposes.
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### § 1600. Findings and purposes

#### (a) Findings

The Congress finds that—

(1) there are multiple purposes established by law for the dams and other control structures administered by the Secretary of the Interior on the Colorado River;

(2) the maintenance of the Colorado River Floodway established in this chapter is essential to accomplish these multiple purposes;

(3) developments within the Floodway are and will continue to be vulnerable to damaging flows such as the property damage which occurred in 1983 and may occur in the future;

(4) certain Federal programs which subsidize or permit development within the Floodway threaten human life, health, property, and natural resources; and

(5) there is a need for coordinated Federal, State, and local action to limit Floodway development.

#### (b) Purpose

The Congress declares that the purposes of this chapter are to—

(1) establish the Colorado River Floodway, as designated and described further in this chapter, so as to provide benefits to river users and to minimize the loss of human life, protect health and safety, and minimize damage to property and natural resources by restricting future Federal expenditures and financial assistance, except public health funds, which have the effect of encouraging development within the Colorado River Floodway; and

(2) establish a task force to advise the Secretary of the Interior and the Congress on establishment of the Floodway and on managing existing and future development within the Floodway, including the appropriateness of compensation in specified cases of extraordinary hardship.

(Pub. L. 99–450, § 2, Oct. 8, 1986, 100 Stat. 1129.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning Pub. L. 99–450, Oct. 8, 1986, 100 Stat. 1129, known as the Colorado River Floodway Protection Act, which enacted this chapter and section 4029 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 99–450 provided that: "This Act [enacting this chapter and section 4029 of Title 42, The Public Health and Welfare] may be cited as the 'Colorado River Floodway Protection Act'."

### § 1600a. Definitions

(a) The term "Committees" refers to the Committee on Natural Resources of the United States House of Representatives and the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the United States Senate.

(b) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(1) general revenue-sharing grants made under section 6702[1] of title 31;

(2) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(3) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation;

(4) assistance for environmental studies, plans, and assessments that are required incident to the issuance of permits or other authorizations under Federal law; and

(5) assistance pursuant to programs entirely unrelated to development, such as any Federal or federally assisted public assistance program or any Federal old-age, survivors, or disability insurance program.

Such term also includes flood insurance described in sections[2] 4029(a) and (b) of title 42 on

[1] See References in Text note below.

[2] So in original. Probably should be in the singular.

and after the dates on which the provisions of those sections[2] become effective.

(c) The term ''Secretary'' means the Secretary of the Interior.

(d) The term ''water district'' means any public agency providing water service, including water districts, county water districts, public utility districts, and irrigation districts.

(e) The term ''Floodway'' means the Colorado River Floodway established in section 1600c of this title.

(Pub. L. 99–450, § 3, Oct. 8, 1986, 100 Stat. 1129; Pub. L. 103–437, § 16(a)(4), Nov. 2, 1994, 108 Stat. 4594.)

REFERENCES IN TEXT

Chapter 67 of title 31, including section 6702, referred to in subsec. (b)(1), was repealed by Pub. L. 99–272, title XIV, § 1400(a)(1), Apr. 7, 1986, 100 Stat. 327. See also Codification note below.

The dates on which the provisions of sections 4029(a) and (b) of title 42 become effective, referred to in subsec. (b), is Oct. 8, 1986, the date of enactment of Pub. L. 99–450 which enacted section 4029(a), (b) of Title 42, The Public Health and Welfare.

CODIFICATION

In subsec. (b)(1), ''section 6702 of title 31'' substituted for ''section 102 of the State and Local Fiscal Assistance Amendments of 1972 (31 U.S.C. 1221)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the United States House''.

## § 1600b. Colorado River Floodway Task Force

### (a) Establishment and membership

To advise the Secretary and the Congress there shall be a Colorado River Floodway Task Force, which shall include one representative of—

(1) each State (appointed by the Governor) and Indian reservation in which the Floodway is located;

(2) each county in which the Floodway is located;

(3) a law enforcement agency from each county in which the Floodway is located;

(4) each water district in which the Floodway is located;

(5) the cities of Needles, Parker, Blythe, Bullhead City, Yuma, Laughlin, Lake Havasu City, Nevada (if and when incorporated), and Mojave County, Arizona Supervisor District No. 2 (chosen by, but not a member of the Board of Supervisors);

(6) of the Chamber of Commerce from each county in which the Floodway is located;

(7) the Colorado River Wildlife Council;

(8) the Army Corps of Engineers;

(9) the Federal Emergency Management Agency (FEMA);

(10) the Department of Agriculture;

(11) the Department of the Interior; and

(12) the Department of State.

### (b) Charter and operation; reports and recommendations

The task force shall be chartered and operate under the provisions of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App.) and shall prepare recommendations concerning the Colorado River Floodway, which recommendations shall deal with:

(1) the means to restore and maintain the Floodway specified in section 1600c of this title, including, but not limited to, specific instances where land transfers or relocations, or other changes in land management, might best effect the purposes of this chapter;

(2) the necessity for additional Floodway management legislation at local, tribal, State, and Federal levels;

(3) the development of specific design criteria for the creation of the Floodway boundaries;

(4) the review of mapping procedures for Floodway boundaries;

(5) whether compensation should be recommended in specific cases of economic hardship resulting from impacts of the 1983 flood on property outside the Floodway which could not reasonably have been foreseen; and

(6) the potential application of the Floodway on Indian lands and recommended legislation or regulations that might be needed to achieve the purposes of the Floodway taking into consideration the special Federal status of Indian lands.

### (c) Termination of task force; report to Secretary and Congressional Committees

The task force shall exist for at least one year after October 8, 1986, or until such time as the Secretary has filed with the Committees the maps described in section 1600c(b)(2)[1] of this title. The task force shall file its report with the Secretary and the Committees within nine months after October 8, 1986.

(Pub. L. 99–450, § 4, Oct. 8, 1986, 100 Stat. 1130.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 1600c(b)(2) of this title, referred to in subsec. (c), was struck out and former subsec. (b)(1)(ii) of section 1600c redesignated subsec. (b)(2) of section 1600c by Pub. L. 105–362, title IX, § 901(d)(1), Nov. 10, 1998, 112 Stat. 3289. As so amended, section 1600c(b)(2) no longer relates to maps required to be prepared and filed by the Secretary.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[1] See References in Text note below.

### § 1600c. Colorado River Floodway

**(a) Establishment**

There is established the Colorado River Floodway as identified and generally depicted on maps that are to be submitted by the Secretary.

**(b) Study of tributary floodflows; determination of Floodway boundary**

Within eighteen months after October 8, 1986, the Secretary, in consultation with the seven Colorado River Basin States, represented by persons designated by the Governors of those States, the Colorado River Floodway Task Force, and any other interested parties shall:

(1) complete a study of the tributary floodflows downstream of Davis Dam;

(2) define the specific boundaries of the Colorado River Floodway so that the Floodway can accommodate either a one-in-one hundred year river flow consisting of controlled releases and tributary inflow, or a flow of forty thousand cubic feet per second (cfs), whichever is greater, from below Davis Dam to the Southerly International Boundary between the United States of America and the Republic of Mexico.

**(c) Review and modification of boundaries; notice and comment; written justification for decision of Secretary**

(1) The Secretary shall conduct, at least once every five years, a review of the Colorado River Floodway and make, after notice to and in consultation with appropriate chief executive officers of States, counties, municipalities, water districts, Indian tribes, or equivalent jurisdictions in which the Floodway is located, and others, such minor and technical modifications to the boundaries of the Floodway as are necessary solely to reflect changes that have occurred in the size or location of any portion of the floodplain as a result of natural forces, and as necessary pursuant to subsection (c) of section 1600e of this title.

(2) If, in the case of any minor and technical modification to the boundaries of the Floodway made under the authority of this subsection, an appropriate chief executive officer of a State, county, municipality, water district, Indian tribe, or equivalent jurisdiction, to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

(Pub. L. 99–450, § 5, Oct. 8, 1986, 100 Stat. 1131; Pub. L. 105–362, title IX, § 901(d), Nov. 10, 1998, 112 Stat. 3289.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–362, § 901(d)(1), struck out par. (1) designation, redesignated cls. (i) and (ii) of former par. (1) as pars. (1) and (2), respectively, and struck out former pars. (2) and (3) which related to preparation and filing of maps with congressional committees, Federal, State, and local government agencies, and federally insured financial institutions.

Subsec. (c)(1). Pub. L. 105–362, § 901(d)(2), substituted ''appropriate chief executive officers of States, counties, municipalities, water districts, Indian tribes, or equivalent jurisdictions in which the Floodway is located,'' for ''the appropriate officers referred to in paragraph (3) of subsection (b) of this section,''.

### § 1600d. Limitations on Federal expenditures affecting Floodway

(a) Except as provided in section 1600e of this title, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Floodway established under section 1600c of this title.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for purposes of this chapter, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before October 8, 1986; or

(2) no legally binding commitment for the expenditure or financial assistance was made before October 8, 1986.

(Pub. L. 99–450, § 6, Oct. 8, 1986, 100 Stat. 1132.)

### § 1600e. Exceptions

Notwithstanding section 1600d of this title, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Colorado River Floodway for—

(a) any dam, channel or levee construction, operation or maintenance for the purpose of flood control, water conservation, power or water quality;

(b) other remedial or corrective actions, including but not limited to drainage facilities essential to assist in controlling adjacent high ground water conditions caused by flood flows;

(c) the maintenance, replacement, reconstruction, repair, and expansion, of publicly or tribally owned or operated roads, structures (including bridges), or facilities: *Provided*, That, no such expansion shall be permitted unless—

(1) the expansion is designed and built in accordance with the procedures and standards established in section 650.101 of title 23, Code of Federal Regulations, and the following as they may be amended from time to time; and

(2) the boundaries of the Floodway are adjusted to account for changes in flows caused, directly or indirectly, by the expansion;

(d) military activities essential to national security;

(e) any of the following actions or projects, but only if the Secretary finds that the making available of expenditures or assistance therefor is consistent with the purposes of this chapter:

(1) projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects;

(2) the establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto;

(3) projects eligible for funding under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 through 11);

(4) scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications;

(5) assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974[1] (42 U.S.C. 5145 and 5146) and are limited to actions that are necessary to alleviate the emergency. Disaster assistance under other provisions of the Disaster Relief Act of 1974[1] (Public Law 93–288, as amended) [42 U.S.C. 5121 et seq.] may also be provided with respect to persons residing within the Floodway, or structures or public infrastructure in existence or substantially under construction therein, on the date ninety days after October 8, 1986: *Provided*, That, such persons, or with respect to public infrastructure the State or local political entity which owns or controls such infrastructure, had purchased flood insurance for structures or infrastructure under the National Flood Insurance Program, if eligible, and had taken prudent and reasonable steps, as determined by the Administrator of the Federal Emergency Management Agency, to minimize damage from future floods or operations of the Floodway established in the chapter;

(6) other assistance for public health purposes, such as mosquito abatement programs;

(7) nonstructural projects for riverbank stabilization that are designed to enhance or restore natural stabilization systems;

(8) publicly or tribally financed, owned and operated compatible recreational developments such as regional parks, golf courses, docks, boat launching ramps (including steamboat and ferry landings), including compatible recreation uses and accompanying utility or interpretive improvements which are essential or closely related to the purpose of restoring the accuracy of a National Historical Landmark and which meet best engineering practices considering the nature of Floodway conditions;

(9) compatible agricultural uses that do not involve permanent crops and include only a minimal amount of permanent facilities in the Floodway.

(Pub. L. 99–450, § 7, Oct. 8, 1986, 100 Stat. 1132; Pub. L. 109–295, title VI, § 612(c), Oct. 4, 2006, 120 Stat. 1410.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 through 11), referred to in subsec. (e)(3), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

The Disaster Relief Act of 1974, referred to in subsec. (e)(5), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. The 1974 Act was renamed ''The Robert T. Stafford Disaster Relief and Emergency Assistance Act'', and was substantially revised by Pub. L. 100–707, Nov. 23, 1988, 102 Stat. 4689. Section 102(b) of Pub. L. 100–707 provided that a reference in any other law to a provision of the Disaster Relief Act of 1974 shall be deemed to be a reference to such provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The Act was renamed the ''Robert T. Stafford Disaster Relief and Emergency Assistance Act'' by Pub. L. 106–390, title III, § 301, Oct. 30, 2000, 1114 Stat. 1572. Section 105(d) of Pub. L. 100–707 repealed sections 305 and 306 of the Act (42 U.S.C. 5145 and 5146) and redesignated sections 308 and 309 of the Act (42 U.S.C. 5148 and 5149), and any references thereto, as sections 305 and 306, respectively. For corresponding provisions to former sections 305 and 306 of the Act, see sections 5170a, 5170b, and 5192 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

CHANGE OF NAME

''Administrator of the Federal Emergency Management Agency'' substituted for ''Director of the Federal Emergency Management Agency'' in subsec. (e)(5) on authority of section 612(c) of Pub. L. 109–295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109–295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109–295, set out as a note under section 313 of Title 6.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## § 1600f. Certification of compliance

The Secretary of the Interior shall, on behalf of each Federal agency concerned, make written certification that each agency has complied with the provisions of this chapter during each fiscal year beginning after September 30, 1985. Such certification shall be submitted on an annual basis to the United States House of Representatives and the United States Senate on or before January 15 of each fiscal year.

(Pub. L. 99–450, § 8, Oct. 8, 1986, 100 Stat. 1134.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the Secretary submit written certifications on an annual

[1] See References in Text note below.

basis to the United States House of Representatives and the United States Senate, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 6th item on page 113 of House Document No. 103–7.

### § 1600g. Priority of laws

Nothing contained in this chapter shall be construed to alter, amend, repeal, modify, interpret, or be in conflict with the provisions of the Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), the Water Treaty of 1944 with the United Mexican States (Treaty Series 944, 59 Stat. 1219), the Flood Control Act of 1944 (58 Stat. 887), the decree entered by the Supreme Court of the United States in Arizona v. California, and others (376 U.S. 340), the Boulder Canyon Project Act (45 Stat. 1057) [43 U.S.C. 617 et seq.], the Boulder Canyon Project Adjustment Act (54 Stat. 774; 43 U.S.C. 618a) [43 U.S.C. 618 et seq.], the Colorado River Storage Project Act (70 Stat. 105; 43 U.S.C. 620) [43 U.S.C. 620 et seq.], the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501) [43 U.S.C. 1501 et seq.]. Furthermore, nothing contained in this chapter shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, tribe, or political subdivision of a State. No provision of this chapter shall be construed to invalidate any provision of State, tribal, or local law unless there is a direct conflict between such provision and the law of the State, or political subdivision of the State or tribe, so that the two cannot be reconciled or consistently stand together. Inconsistencies shall be reviewed by the task force, and the task force shall make recommendations concerning such local laws. This chapter shall in no way be interpreted to interfere with a State's or tribe's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

(Pub. L. 99–450, § 9, Oct. 8, 1986, 100 Stat. 1134.)

REFERENCES IN TEXT

The Colorado River Compact (45 Stat. 1057), the Upper Colorado River Basin Compact (63 Stat. 31), and the Water Treaty of 1944, referred to in text, are not classified to the Code.

The Flood Control Act of 1944, referred to in text, is act Dec. 22, 1944, ch. 665, 58 Stat. 887, as amended, which enacted section 390 of this title, sections 460d and 825s of Title 16, Conservation, and sections 701–1, 701a–1, 708, and 709 of Title 33, Navigation and Navigable Waters, and enacted provisions set out as notes under sections 701c, 701f, and 701j of Title 33. For complete classification of this Act to the Code, see Tables.

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 chapter 12A of this title. 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 text, is act July 19, 1940, ch. 643, 54 Stat. 774, as amended, which is classified generally to subchapter II (§ 618 et seq.) of chapter 12A of this title. For complete classification of this Act to the Code, see section 618*o* of this title and Tables.

The Colorado River Storage Project Act, referred to in text, is act Apr. 11, 1956, ch. 203, 70 Stat. 105, as amended, which is classified generally to chapter 12B (§ 620 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 620 of this title and Tables.

The Colorado River Basin Project Act, referred to in text, 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. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

### § 1600h. Separability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 99–450, § 10, Oct. 8, 1986, 100 Stat. 1134.)

### § 1600i. Reports to Congress

Within one year after October 8, 1986, the Secretary shall prepare and submit to the Committees a report regarding the Colorado River Floodway, the task force's report, and the Secretary's recommendations with respect to the objectives outlined in section 1600b(b) of this title. In making his report, the Secretary shall analyze the effects of this chapter on the economic development of the Indian tribes whose lands are located within the Floodway.

(Pub. L. 99–450, § 11, Oct. 8, 1986, 100 Stat. 1134.)

### § 1600j. Federal leases

**(a) Lease of lands owned in whole or in part by United States within Floodway; determination of consistency with operation and maintenance**

No lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be granted after October 8, 1986, unless the Secretary determines that such lease would be consistent with the operation and maintenance of the Colorado River Floodway.

**(b) Extension of existing leases; minimization of inconsistency with operation and maintenance of Floodway**

No existing lease of lands owned in whole or in part by the United States and within the Colorado River Floodway shall be extended beyond October 8, 1986, or the stated expiration date of its current term, whichever is later, unless the lessee agrees to take reasonable and prudent steps determined to be necessary by the Secretary to minimize the inconsistency of operation under such lease with the operation and maintenance of the Colorado River Floodway.

**(c) Lease of lands owned in whole or in part by United States between Hoover Dam and Davis Dam**

No lease of lands owned in whole or part by the United States between Hoover Dam and Davis Dam below elevation 655.0 feet on Lake Mohave shall be granted unless the Secretary determines that such lease would be consistent with the operation of Lake Mohave.

**(d) Lease operations on Indian lands**

The provisions of subsections (a) and (b) of this section shall not apply to lease operations

on Indian lands pursuant to a lease providing for activities which are exempted under section 1600e of this title.

**(e) Lands held in trust by United States for benefit of Indian tribes or individuals**

Subsections (a) and (b) of this section shall not apply to lands held in trust by the United States for the benefit of any Indian tribe or individual with respect to any lease where capital improvements, and operation and maintenance costs are not provided for by Federal financial assistance if the lessee, tribe, or individual has provided insurance or other security for the benefit of the Secretary sufficient to insure against all reasonably forseeable,[1] direct, and consequential damages to the property of the tribe, private persons, and the United States, which may result from the proposed lease.

(Pub. L. 99–450, § 13, Oct. 8, 1986, 100 Stat. 1135.)

**§ 1600k. Notices and existing laws**

**(a) Provisions relating to construction work, liability for damage, etc., on Mississippi River; notice to lessees**

(1) Nothing in this chapter shall alter or affect in any way the provisions of section 702c of title 33.

(2) The Secretary shall provide notice of the provisions of section 702c of title 33 and this chapter to all existing and prospective lessees of lands leased by the United States and within the Colorado River Floodway.

**(b) National Flood Insurance Act and National Flood Insurance Program; continuation**

Except as otherwise specifically provided in this chapter, all provisions of the National Flood Insurance Act of 1968, as amended [42 U.S.C. 4001 et seq.], and requirements of the National Flood Insurance Program (''NFIP'') shall continue in full force and effect within areas wholly or partially within the Colorado River Floodway. Any maps or other information required to be prepared by this chapter shall be used to the maximum extent practicable to support implementation of the NFIP.

**(c) National Flood Insurance Act provisions relating directly to Floodway; notice to communities affected**

The Secretary shall publish notice on three successive occasions in newspapers of general circulation in communities affected by the provisions of section 4029 of title 42.

(Pub. L. 99–450, § 14, Oct. 8, 1986, 100 Stat. 1136.)

REFERENCES IN TEXT

The National Flood Insurance Act of 1968, referred to in subsec. (b), is title XIII of Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 572, as amended, which is classified principally to chapter 50 (§ 4001 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 4001 of Title 42 and Tables.

**§ 1600*l*. Authorization of appropriations**

There is authorized to be appropriated to the Department of the Interior $600,000, through the end of fiscal year 1990, in addition to any other funds now available to the Department to discharge its duties to implement sections 1600b to 1600k of this title and section 4029 of title 42: *Provided*, That by mutual agreement, such funds shall be made available to the Federal Emergency Management Agency to discharge its duties under section 4029 of title 42: *Provided further*, That the provisions of sections 1600d and 1600e of this title shall not be affected by this section: *And Provided further*, in addition, Indian tribes may be eligible under Public Law 93–638 [25 U.S.C. 450 et seq.] to contract for studies of Indian lands required under the provisions of this chapter.

(Pub. L. 99–450, § 15, Oct. 8, 1986, 100 Stat. 1136.)

REFERENCES IN TEXT

Public Law 93–638, referred to in text, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

## CHAPTER 33—ALASKA NATIVE CLAIMS SETTLEMENT

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[1] So in original. Probably should be ''foreseeable,''.

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## § 1601. Congressional findings and declaration of policy

Congress finds and declares that—

(a) there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska, based on aboriginal land claims;

(b) the settlement should be accomplished rapidly, with certainty, in conformity with the real economic and social needs of Natives, without litigation, with maximum participation by Natives in decisions affecting their rights and property, without establishing any permanent racially defined institutions, rights, privileges, or obligations, without creating a reservation system or lengthy wardship or trusteeship, and without adding to the categories of property and institutions enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska;

(c) no provision of this chapter shall replace or diminish any right, privilege, or obligation of Natives as citizens of the United States or of Alaska, or relieve, replace, or diminish any obligation of the United States or of the State or Alaska to protect and promote the rights or welfare of Natives as citizens of the United States or of Alaska; the Secretary is authorized and directed, together with other appropriate agencies of the United States Government, to make a study of all Federal programs primarily designed to benefit Native people and to report back to the Congress with his recommendations for the future management and operation of these programs within three years of December 18, 1971;

(d) no provision of this chapter shall constitute a precedent for reopening, renegotiating, or legislating upon any past settlement involving land claims or other matters with any Native organizations, or any tribe, band, or identifiable group of American Indians;

(e) no provision of this chapter shall effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438[1] of title 10 except as specifically provided in this chapter;

(f) no provision of this chapter shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this chapter; and

(g) no provision of this chapter shall be construed to terminate or otherwise curtail the activities of the Economic Development Administration or other Federal agencies conducting loan or loan and grant programs in Alaska. For this purpose only, the terms ''Indian reservation'' and ''trust or restricted Indian-owned land areas'' in Public Law 89–136, the Public Works and Economic Development Act of 1965, as amended [42 U.S.C. 3121 et seq.], shall be interpreted to include lands granted to Natives under this chapter as long as such lands remain in the ownership of the Native villages or the Regional Corporations.

(Pub. L. 92–203, § 2, Dec. 18, 1971, 85 Stat. 688.)

REFERENCES IN TEXT

Section 7434 of title 10, referred to in subsec. (e), was repealed by Pub. L. 104–66, title I, § 1051(g), Dec. 21, 1995, 109 Stat. 716.

The Public Works and Economic Development Act of 1965, referred to in subsec. (g), is Pub. L. 89–136, Aug. 26, 1965, 79 Stat. 552, as amended, which is classified generally to chapter 38 (§ 3121 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 3121 of Title 42 and Tables.

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–452, § 1(a), Dec. 10, 2004, 118 Stat. 3575, provided that: ''This Act [amending sections 1611, 1613, 1617, 1621, 1629g, and 1635 of this title, enacting provisions set out as notes under sections 852, 1602, 1611, 1617, and 1635 of this title, and amending provisions set out as notes under section 852 of this title and preceding section 21 of Title 48, Territories and Insular Possessions] may be cited as the 'Alaska Land Transfer Acceleration Act'.''

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–283, § 1, Oct. 6, 2000, 114 Stat. 867, provided that: ''This Act [enacting section 1629h of this title and provisions set out as a note under section 1629h of this title] may be cited as the 'Kake Tribal Corporation Land Transfer Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–333, § 14, Oct. 31, 1998, 112 Stat. 3136, provided that: ''This Act [amending sections 1606, 1611, 1621, 1626, 1629e, 1634, and 1636 of this title and section 3197 of Title 16, Conservation, and enacting provisions set out as a note under section 3198 of Title 16] may be cited as the 'ANCSA Land Bank Protection Act of 1998'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–415, § 1, Oct. 14, 1992, 106 Stat. 2112, provided that: ''This Act [amending sections 1606, 1617,

[1] See References in Text note below.

1620, 1621, 1626, and 1634 of this title and section 3198 of Title 16, Conservation, and enacting provisions set out as notes under section 852 of this title and section 539 of Title 16] may be cited as the 'Alaska Land Status Technical Corrections Act of 1992'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–241, § 1(a), Feb. 3, 1988, 101 Stat. 1788, provided that: ''This Act [enacting sections 1629b to 1629e of this title, amending sections 1602, 1606, 1607, 1620, 1625 to 1627, and 1636 of this title, section 78m of Title 15, Commerce and Trade, and section 1702 of Title 30, Mineral Lands and Mining, and enacting provisions set out as notes under this section and under section 1702 of Title 30] may be cited as the 'Alaska Native Claims Settlement Act Amendments of 1987'.''

SHORT TITLE

Section 1 of Pub. L. 92–203 provided: ''That this Act [enacting this chapter] may be cited as the 'Alaska Native Claims Settlement Act'.''

SAVINGS PROVISION

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as modifying, etc., any provision of this chapter, see section 701 of Pub. L. 94–579, set out as a note under section 1701 of this title.

Section 26 of Pub. L. 92–203 provided that: ''To the extent that there is a conflict between any provision of this Act [enacting this chapter] and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.''

SEVERABILITY

Section 27 of Pub. L. 92–203, as amended by Pub. L. 100–241, § 13, Feb. 3, 1988, 101 Stat. 1810, provided that: ''The provisions of this Act, as amended [enacting this chapter], and the Alaska Native Claims Settlement Act Amendments of 1987 [Pub. L. 100–241, see Short Title of 1988 Amendment note above] are severable. If any provision of either Act is determined by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of any other provision of either Act.''

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Pub. L. 100–241, § 2, Feb. 3, 1988, 101 Stat. 1788, provided that: ''The Congress finds and declares that—

''(1) the Alaska Native Claims Settlement Act [this chapter] was enacted in 1971 to achieve a fair and just settlement of all aboriginal land and hunting and fishing claims by Natives and Native groups of Alaska with maximum participation by Natives in decisions affecting their rights and property;

''(2) the settlement enabled Natives to participate in the subsequent expansion of Alaska's economy, encouraged efforts to address serious health and welfare problems in Native villages, and sparked a resurgence of interest in the cultural heritage of the Native peoples of Alaska;

''(3) despite these achievements and Congress's desire that the settlement be accomplished rapidly without litigation and in conformity with the real economic and social needs of Natives, the complexity of the land conveyance process and frequent and costly litigation have delayed implementation of the settlement and diminished its value;

''(4) Natives have differing opinions as to whether the Native Corporation, as originally structured by the Alaska Native Claims Settlement Act, is well adapted to the reality of life in Native villages and to the continuation of traditional Native cultural values;

''(5) to ensure the continued success of the settlement and to guarantee Natives continued participation in decisions affecting their rights and property, the Alaska Native Claims Settlement Act must be amended to enable the shareholders of each Native Corporation to structure the further implementation of the settlement in light of their particular circumstances and needs;

''(6) among other things, the shareholders of each Native Corporation must be permitted to decide—

''(A) when restrictions on alienation of stock issued as part of the settlement should be terminated, and

''(B) whether Natives born after December 18, 1971, should participate in the settlement;

''(7) by granting the shareholders of each Native Corporation options to structure the further implementation of the settlement, Congress is not expressing an opinion on the manner in which such shareholders choose to balance individual rights and communal rights;

''(8) no provision of this Act [see Short Title of 1988 Amendment note above] shall—

''(A) unless specifically provided, constitute a repeal or modification, implied or otherwise, of any provision of the Alaska Native Claims Settlement Act; or

''(B) confer on, or deny to, any Native organization any degree of sovereign governmental authority over lands (including management, or regulation of the taking, of fish and wildlife) or persons in Alaska; and

''(9) the Alaska Native Claims Settlement Act and this Act are Indian legislation enacted by Congress pursuant to its plenary authority under the Constitution of the United States to regulate Indian affairs.''

JUDICIAL REVIEW

Pub. L. 100–241, § 16, Feb. 3, 1988, 101 Stat. 1813, provided that:

''(a) STATUTE OF LIMITATIONS.—(1) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of an amendment made by, or other provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) [see Short Title of 1988 Amendment note above] shall be barred unless filed within the periods specified in this subsection.

''(2) If a civil action described in paragraph (1) challenges—

''(A) the issuance or distribution of Settlement Common Stock for less than fair market value consideration pursuant to section 7(g)(1)(B) or 7(g)(2)(C)(ii) of the Alaska Native Claims Settlement Act [43 U.S.C. 1606(g)(1)(B), (2)(C)(ii)]; or

''(B) an extension of alienability restrictions that involves the issuance of stock pursuant to subsections [sic] (c) or (d) of section 37 of such Act [43 U.S.C. 1629c(c), (d)]; or

''(C) the denial of dissenters rights after the rejection of an amendment to terminate alienability restrictions pursuant to section 37(b) of such Act;

such civil action shall be barred unless it is filed within one year after the date of the shareholder vote authorizing such issuance or distribution, extension of restrictions, or denial of right, and unless a request for a declaratory judgment or injunctive relief is made before stock is issued or distributed.

''(3) Any other civil action described in paragraph (1) shall be barred unless it is filed within two years of the date of the enactment of this Act [Feb. 3, 1988].

''(4) No Native Corporation taking an action described in paragraph (2)(A), (2)(B), or (2)(C) shall issue or distribute stock sooner than fourteen days after the date of the shareholder vote authorizing such action.

''(b) JURISDICTION AND PROCEDURE.—(1) The United States District Court for the District of Alaska shall have exclusive original jurisdiction over a civil action described in subsection (a)(1). The action shall be heard and determined by a court of three judges as provided in section 2284 of title 28 of the United States Code. An appeal of the final judgment of such court shall be made directly to the United States Supreme Court.

''(2) No money judgment shall be entered against the United States in a civil action subject to this section.

''(c) STATEMENT OF PURPOSE.—The purpose of the limitation on civil actions established by this section is—

''(1) to ensure that after the expiration of a reasonable period of time, Native Shareholders, Native Corporations, the United States, and the State of Alaska and its political subdivisions will be able to plan their affairs with certainty in full reliance on the provisions of this Act, and

''(2) to eliminate the possibility that the United States will incur a monetary liability as a result of the enactment of this Act.''

DISCLAIMER

Pub. L. 100–241, § 17, Feb. 3, 1988, 101 Stat. 1814, provided that:

''(a) No provision of this Act (the Alaska Native Claims Settlement Act Amendments of 1987) [see Short Title of 1988 Amendment note above], exercise of authority pursuant to this Act, or change made by, or pursuant to, this Act in the status of land shall be construed to validate or invalidate or in any way affect—

''(1) any assertion that a Native organization (including a federally recognized tribe, traditional Native council, or Native council organized pursuant to the Act of June 18, 1934 (48 Stat. 987), as amended [25 U.S.C. 461 et seq.]) has or does not have governmental authority over lands (including management of, or regulation of the taking of, fish and wildlife) or persons within the boundaries of the State of Alaska, or

''(2) any assertion that Indian country (as defined by 18 U.S.C. 1151 or any other authority) exists or does not exist within the boundaries of the State of Alaska.

''(b) Nothing in the Alaska Native Claims Settlement Act Amendments of 1987 (or any amendment made thereby) shall be construed—

''(1) to diminish or enlarge the ability of the Federal Government to assess, collect, or otherwise enforce any Federal tax, or

''(2) to affect, for Federal tax purposes, the valuation of any stock issued by a Native Corporation.''

## § 1602. Definitions

For the purposes of this chapter, the term—

(a) ''Secretary'' means the Secretary of the Interior;

(b) ''Native'' means a citizen of the United States who is a person of one-fourth degree or more Alaska Indian (including Tsimshian Indians not enrolled in the Metlaktla[1] Indian Community) Eskimo, or Aleut blood, or combination thereof. The term includes any Native as so defined either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any village or group. Any decision of the Secretary regarding eligibility for enrollment shall be final;

(c) ''Native village'' means any tribe, band, clan, group, village, community, or association in Alaska listed in sections 1610 and 1615 of this title, or which meets the requirements of this chapter, and which the Secretary determines was, on the 1970 census enumeration date (as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance), composed of twenty-five or more Natives;

(d) ''Native group'' means any tribe, band, clan, village, community, or village association of Natives in Alaska composed of less than twenty-five Natives, who comprise a majority of the residents of the locality;

(e) ''Public lands'' means all Federal lands and interests therein located in Alaska except: (1) the smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act, as amended (72 Stat. 341, 77 Stat. 223), or identified for selection by the State prior to January 17, 1969;

(f) ''State'' means the State of Alaska;

(g) ''Regional Corporation'' means an Alaska Native Regional Corporation established under the laws of the State of Alaska in accordance with the provisions of this chapter;

(h) ''Person'' means any individual, group, firm, corporation, association, or partnership;

(i) ''Municipal Corporation'' means any general unit of municipal government under the laws of the State of Alaska;

(j) ''Village Corporation'' means an Alaska Native Village Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native village in accordance with the terms of this chapter.[2]

(k) ''Fund'' means the Alaska Native Fund in the Treasury of the United States established by section 1605 of this title;

(*l*) ''Planning Commission'' means the Joint Federal-State Land Use Planning Commission established by section 1616 of this title;

(m) ''Native Corporation'' means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Group Corporation;

(n) ''Group Corporation'' means an Alaska Native Group Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of a Native group in accordance with the terms of this chapter;

(*o*) ''Urban Corporation'' means an Alaska Native Urban Corporation organized under the laws of the State of Alaska as a business for profit or nonprofit corporation to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of members of an urban community of Natives in accordance with the terms of this chapter;

(p) ''Settlement Common Stock'' means stock of a Native Corporation issued pursuant to section 1606(g)(1) of this title that carries with it the rights and restrictions listed in section 1606(h)(1) of this title;

(q) ''Replacement Common Stock'' means stock of a Native Corporation issued in exchange for Settlement Common Stock pursuant to section 1606(h)(3) of this title;

(r) ''Descendant of a Native'' means—

(1) a lineal descendant of a Native or of an individual who would have been a Native if

[1] So in original. Probably should be ''Metlakatla''.

[2] So in original. The period probably should be a semicolon.

such individual were alive on December 18, 1971, or

(2) an adoptee of a Native or of a descendant of a Native, whose adoption—

(A) occurred prior to his or her majority, and

(B) is recognized at law or in equity;

(s) ''Alienability restrictions'' means the restrictions imposed on Settlement Common Stock by section 1606(h)(1)(B) of this title;

(t) ''Settlement Trust'' means a trust—

(1) established and registered by a Native Corporation under the laws of the State of Alaska pursuant to a resolution of its shareholders, and

(2) operated for the benefit of shareholders, Natives, and descendants of Natives, in accordance with section 1629e of this title and the laws of the State of Alaska.

(Pub. L. 92–203, § 3, Dec. 18, 1971, 85 Stat. 689; Pub. L. 96–487, title XIV, § 1401(d), Dec. 2, 1980, 94 Stat. 2492; Pub. L. 100–241, § 3, Feb. 3, 1988, 101 Stat. 1789; Pub. L. 106–194, § 3, May 2, 2000, 114 Stat. 243.)

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, as amended, referred to in subsec. (e), is section 6(g) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2000—Subsec. (t)(2). Pub. L. 106–194 substituted ''benefit of shareholders, Natives, and descendants of Natives,'' for ''sole benefit of the holders of the corporation's Settlement Common Stock''.

1988—Subsec. (h). Pub. L. 100–241, § 3(1), inserted ''group,'' after ''individual,''.

Subsec. (k). Pub. L. 100–241, § 3(2), struck out ''and'' at end.

Subsec. (*l*). Pub. L. 100–241, § 3(3), substituted semicolon for period.

Subsec. (m). Pub. L. 100–241, § 3(4), substituted ''Group Corporation;'' for ''Native Group.''

Subsecs. (n) to (t). Pub. L. 100–241, § 3(5), added subsecs. (n) to (t).

1980—Subsec. (m). Pub. L. 96–487 added subsec. (m).

DEFINITIONS

Pub. L. 108–452, § 2, Dec. 10, 2004, 118 Stat. 3576, provided that: ''In this Act [see Short Title of 2004 Amendment note set out under section 1601 of this title]:

''(1) NATIVE ALLOTMENT.—The term 'Native allotment' means an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) [former 43 U.S.C. 270–1 to 270–3].

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) STATE.—The term 'State' means the State of Alaska.''

## § 1603. Declaration of settlement

### (a) Aboriginal title extinguishment through prior land and water area conveyances

All prior conveyances of public land and water areas in Alaska, or any interest therein, pursuant to Federal law, and all tentative approvals pursuant to section 6(g) of the Alaska Statehood Act, shall be regarded as an extinguishment of the aboriginal title thereto, if any.

### (b) Aboriginal title and claim extinguishment where based on use and occupancy; submerged lands underneath inland and offshore water areas and hunting or fishing rights included

All aboriginal titles, if any, and claims of aboriginal title in Alaska based on use and occupancy, including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist, are hereby extinguished.

### (c) Aboriginal claim extinguishment where based on right, title, use, or occupancy of land or water areas; domestic statute or treaty relating to use and occupancy; or foreign laws; pending claims

All claims against the United States, the State, and all other persons that are based on claims of aboriginal right, title, use, or occupancy of land or water areas in Alaska, or that are based on any statute or treaty of the United States relating to Native use and occupancy, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or state court or the Indian Claims Commission, are hereby extinguished.

(Pub. L. 92–203, § 4, Dec. 18, 1971, 85 Stat. 689.)

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, referred to in subsec. (a), is section 6(g) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

## § 1604. Enrollment

### (a) Eligible Natives; finality of decision

The Secretary shall prepare within two years from December 18, 1971, a roll of all Natives who were born on or before, and who are living on, December 18, 1971. Any decision of the Secretary regarding eligibility for enrollment shall be final.

### (b) Residence; order of priority in enrollment of Natives not permanent residents; regional family or hardship enrollment

The roll prepared by the Secretary shall show for each Native, among other things, the region and the village or other place in which he resided on the date of the 1970 census enumeration, and he shall be enrolled according to such residence. Except as provided in subsection (c) of this section, a Native eligible for enrollment who is not, when the roll is prepared, a permanent resident of one of the twelve regions established pursuant to section 1606(a) of this title shall be enrolled by the Secretary in one of the twelve regions, giving priority in the following order to—

(1) the region where the Native resided on the 1970 census date if he had resided there without substantial interruption for two or more years;

(2) the region where the Native previously resided for an aggregate of ten years or more;

(3) the region where the Native was born; and

(4) the region from which an ancestor of the Native came:[1]

[1] So in original. The colon probably should be a period.

The Secretary may enroll a Native in a different region when necessary to avoid enrolling members of the same family in different regions or otherwise avoid hardship.

**(c) Election of enrollment in thirteenth region, if established, of Native nonresidents; dependent household members as bound**

A Native eligible for enrollment who is eighteen years of age or older and is not a permanent resident of one of the twelve regions may, on the date he files an application for enrollment, elect to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, if such region is established pursuant to section 1606(c) of this title. If such region is not established, he shall be enrolled as provided in subsection (b) of this section. His election shall apply to all dependent members of his household who are less than eighteen years of age, but shall not affect the enrollment of anyone else.

(Pub. L. 92–203, §5, Dec. 18, 1971, 85 Stat. 690.)

LATE ENROLLMENT OF OTHERWISE QUALIFIED NATIVES

Pub. L. 94–204, §1, Jan. 2, 1976, 89 Stat. 1145, provided: ''That (a) the Secretary of the Interior (hereinafter in this Act [enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title] referred to as the 'Secretary') is directed to review those applications submitted within one year from the date of enactment of this Act [Jan. 2, 1976] by applicants who failed to meet the March 30, 1973, deadline for enrollment established by the Secretary pursuant to the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the 'Settlement Act') [this chapter], and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: *Provided*, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with a pro rata share of all future distributions under the Settlement Act which shall commence beginning with the next regularly scheduled distribution after the enactment of this Act: *Provided further*, That land entitlement of any Native village, Native group, Village Corporation, or Regional Corporation, all as defined in such Act, shall not be affected by any enrollment pursuant to this Act, and that no tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a 'Native village', as defined in such Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, That no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a 'Native group', as defined in such Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: *And provided further*, That any 'Native group', as defined in such Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

''(b) The Secretary is authorized to poll individual Natives properly enrolled to Native villages or Native groups which are not recognized as Village Corporations under section 11 of the Settlement Act [section 1610 of this title] and which are included within the boundaries of former reserves the Village Corporation or Corporations of which elected to acquire title to the surface and subsurface estate of said reserves pursuant to subsection 19(b) of the Settlement Act [section 1618(b) of this title]. The Secretary may allow these individuals the option to enroll to a Village Corporation which elected the surface and subsurface title under section 19(b) or remain enrolled to the Regional Corporation in which the village or group is located on an at-large basis: *Provided*, That nothing in this subsection shall affect existing entitlement to land of any Regional Corporation pursuant to section 12(b) or 14(h)(8) of the Settlement Act [section 1611(b) or 1613(h)(8) of this title].

''(c) In those instances where, on the roll prepared under section 5 of the Settlement Act [this section], there were enrolled as residents of a place on April 1, 1970, a sufficient number of Natives required for a Native village or Native group, as the case may be, and it is subsequently and finally determined that such place is not eligible for land benefits under the Act on grounds which include a lack of sufficient number of residents, the Secretary shall; in accordance with the criteria for residence applied in the final determination of eligibility, redetermine the place of residence on April 1, 1970, of each Native enrolled to such place, and the place of residence as so redetermined shall be such Native's place of residence on April 1, 1970, for all purposes under the Settlement Act: *Provided*, That each Native whose place of residence on April 1, 1970, is changed by reason of this subsection shall be issued stock in the Native corporation or corporations in which such redetermination entitles him to membership and all stock issued to such Native by any Native Corporation in which he is no longer eligible for membership shall be deemed canceled: *Provided further*, That no redistribution of funds made by any Native Corporation on the basis of prior places of residence shall be affected: *Provided further*, That land entitlements of any Native village, Native group, Village Corporation, Regional Corporation, or corporations organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any determination of residence made pursuant to this subsection, and no tribe, band, clan, group, village community, or association not otherwise eligible for land or other benefits as a 'Native group' as defined in said Act, shall become eligible for land or other benefits as a Native group because of any redetermination of residence pursuant to this subsection: *Provided further*, That any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act [section 1605(c) of this title] made by the Secretary or his delegate prior to any redetermination of residency shall not be affected by the provisions of this subsection. Each Native whose place of residence is subject to redetermination as provided in this subsection shall be given notice and an opportunity for hearing in connection with such redetermination as shall any Native Corporation which it appears may gain or lose stockholders by reason of such redetermination of residence.''

ESTABLISHMENT BY COURT ORDER OF 13TH REGIONAL CORPORATION FOR BENEFIT OF NONPERMANENT RESIDENTS; LAND SELECTION ENTITLEMENTS; PREVIOUSLY ISSUED STOCK; ELECTION FOR ENROLLMENT; LAND ENTITLEMENTS OF CORPORATIONS OR NATIVE VILLAGE OR GROUP ELIGIBILITY

Pub. L. 94–204, §8, Jan. 2, 1976, 89 Stat. 1149, provided that:

''(a) Notwithstanding the October 6, 1975, order of the United States District Court for the District of Columbia in the case of Alaska Native Association of Oregon et al. against Rogers C. B. Morton et al., Civil Action Numbered 2133–73, and Alaska Federation of Natives International, Inc., et al. against Rogers C. B. Morton, et al., Civil Action Numbered 2141–73 (— F. Supp. —) [417 F. Supp. 459], changes in enrollments of any Alaska Regional or Village Corporation nor any Native village or group eligibility.

''(b) Stock previously issued by any of the twelve Regional Corporations in Alaska or by Village Corporations to any Native who is enrolled in the thirteenth region pursuant to said order shall, upon said enrollment, be canceled by the issuing corporation without liability to it or the Native whose stock is so canceled: *Provided*, That, in the event that a Native enrolled in the thirteenth region pursuant to said order shall elect

to re-enroll in the appropriate Regional Corporation in Alaska pursuant to the sixth ordering paragraph of that order, stock of such Native may be canceled by the Thirteenth Regional Corporation and stock may be issued to such Native by the appropriate Regional Corporation in Alaska without liability to either corporation or to the Native.

''(c) Whenever additional enrollment under the Settlement Act [this chapter] is permitted pursuant to this Act [enacting sections 1625 to 1627 of this title, amending sections 1615, 1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title] or any other provision of law, any Native enrolling under such authority who is determined not to be a permanent resident of the State of Alaska under criteria established pursuant to the Settlement Act shall, at the time of enrollment, elect whether to be enrolled in the thirteenth region or in the region determined pursuant to the provisions of section 5(b) of such act [section 1604(b) of this title] and such election shall apply to all dependent members of such Native's household who are less than eighteen years of age on the date of such election.

''(d) No change in the final roll of Natives established by the Secretary pursuant to section 5 of the Settlement Act [section 1604 of this title] resulting from any regulation promulgated by the Secretary of the Interior providing for the disenrollment of Natives shall affect land entitlements of any Regional or Village Corporation or any Native village or group eligibility.''

## § 1605. Alaska Native Fund

### (a) Establishment in Treasury; deposits into Fund of general fund, interest, and revenue sharing moneys

There is hereby established in the United States Treasury an Alaska Native Fund into which the following moneys shall be deposited:

(1) $462,500,000 from the general fund of the Treasury, which are authorized to be appropriated according to the following schedule:

(A) $12,500,000 during the fiscal year in which this chapter becomes effective;

(B) $50,000,000 during the second fiscal year;

(C) $70,000,000 during each of the third, fourth, and fifth fiscal years;

(D) $40,000,000 during the period beginning July 1, 1976, and ending September 30, 1976; and

(E) $30,000,000 during each of the next five fiscal years, for transfer to the Alaska Native Fund in the fourth quarter of each fiscal year.

(2) Four percent interest per annum, which is authorized to be appropriated, on any amount authorized to be appropriated by this paragraph that is not appropriated within six months after the fiscal year in which payable.

(3) $500,000,000 pursuant to the revenue sharing provisions of section 1608 of this title.

### (b) Prohibition of expenditures for propaganda or political campaigns; misdemeanor; penalty

None of the funds paid or distributed pursuant to this section to any of the Regional and Village Corporations established pursuant to this chapter shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing and distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than twelve months, or both.

### (c) Distribution of Fund moneys among organized Regional Corporations; basis as relative number of Native enrollees in each region; reserve for payment of attorney and other fees; retention of share in Fund until organization of corporation

After completion of the roll prepared pursuant to section 1604 of this title, all money in the Fund, except money reserved as provided in section 1619 of this title for the payment of attorney and other fees, shall be distributed at the end of each three months of the fiscal year among the Regional Corporations organized pursuant to section 1606 of this title on the basis of the relative numbers of Natives enrolled in each region. The share of a Regional Corporation that has not been organized shall be retained in the Fund until the Regional Corporation is organized.

(Pub. L. 92–203, § 6, Dec. 18, 1971, 85 Stat. 690; Pub. L. 94–273, § 38, Apr. 21, 1976, 90 Stat. 380.)

AMENDMENTS

1976—Subsec. (a)(1)(D). Pub. L. 94–273 substituted ''period beginning July 1, 1976, and ending September 30, 1976; and'' for ''the sixth fiscal year; and''.

Subsec. (a)(1)(E). Pub. L. 94–273 inserted provision relating to transfer to the Alaska Native Fund.

DEPOSITS INTO AND DISTRIBUTIONS FROM ALASKA NATIVE FUND; TIME REQUIREMENTS; INCLUSION OF PREVIOUSLY EARNED INTEREST

Pub. L. 96–487, title XIV, § 1414, Dec. 2, 1980, 94 Stat. 2498, provided that:

''(a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act [Dec. 2, 1980], shall, for the purposes of section 5 of Public Law 94–204 [set out below] only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act [subsec. (c) of this section] notwithstanding any other provision of law.

''(b) For the fiscal year in which this Act is enacted [fiscal year 1981], the money appropriated shall be deposited within 10 days of enactment [Dec. 2, 1980], unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: *Provided*, That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

''(c) Notwithstanding section 38 of the Fiscal Year Adjustment Act [section 38 of Pub. L. 94–273, which amended this section] or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94–373; 90 Stat. 1051) [not classified to the Code], and deposited in the Alaska Native Fund on or after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act [Dec. 2, 1980] and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act [subsec. (c) of this section].''

ALASKA NATIVE FUND VIEWED AS TRUST FOR INDIAN TRIBES FOR PURPOSES OF INTEREST AND INVESTMENT

Pub. L. 94–204, § 5, Jan. 2, 1976, 89 Stat. 1147, provided that: ''For purposes of the first section of the Act of

February 12, 1929 (45 Stat. 1164), as amended [section 161a of Title 25, Indians], and the first section of the Act of June 24, 1938 (52 Stat. 1037) [section 162a of Title 25], the Alaska Native Fund shall, pending distributions under section 6(c) of the Settlement Act [subsec. (c) of this section] be considered to consist of funds held in trust by the Government of the United States for the benefit of Indian tribes: *Provided*, That nothing in this section shall be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act [this chapter].''

## § 1606. Regional Corporations

### (a) Division of Alaska into twelve geographic regions; common heritage and common interest of region; area of region commensurate with operations of Native association; boundary disputes, arbitration

For purposes of this chapter, the State of Alaska shall be divided by the Secretary within one year after December 18, 1971, into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Straits Association (Seward Peninsula, Unalakleet, Saint Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chiefs' Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Association (Kenai, Tyonek, Eklutna, Iliamna);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Peninsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska, including Metlakatla);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of a region or regions shall be resolved by a board of arbitrators consisting of one person selected by each of the Native associations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Native associations involved.

### (b) Region mergers; limitation

The Secretary may, on request made within one year of December 18, 1971, by representative and responsible leaders of the Native associations listed in subsection (a) of this section, merge two or more of the twelve regions: *Provided*, That the twelve regions may not be reduced to less than seven, and there may be no fewer than seven Regional Corporations.

### (c) Establishment of thirteenth region for nonresident Natives; majority vote; Regional Corporation for thirteenth region

If a majority of all eligible Natives eighteen years of age or older who are not permanent residents of Alaska elect, pursuant to section 1604(c) of this title, to be enrolled in a thirteenth region for Natives who are non-residents of Alaska, the Secretary shall establish such a region for the benefit of the Natives who elected to be enrolled therein, and they may establish a Regional Corporation pursuant to this chapter.

### (d) Incorporation; business for profit; eligibility for benefits; provisions in articles for carrying out chapter

Five incorporators within each region, named by the Native association in the region, shall incorporate under the laws of Alaska a Regional Corporation to conduct business for profit, which shall be eligible for the benefits of this chapter so long as it is organized and functions in accordance with this chapter. The articles of incorporation shall include provisions necessary to carry out the terms of this chapter.

### (e) Original articles and bylaws: approval by Secretary prior to filing, submission for approval; amendments to articles: approval by Secretary; withholding approval in event of creation of inequities among Native individuals or groups

The original articles of incorporation and bylaws shall be approved by the Secretary before they are filed, and they shall be submitted for approval within eighteen months after December 18, 1971. The articles of incorporation may not be amended during the Regional Corporation's first five years without the approval of the Secretary. The Secretary may withhold approval under this section if in his judgment inequities among Native individuals or groups of Native individuals would be created.

### (f) Board of directors; management; stockholders; provisions in articles or bylaws for number, term, and method of election

The management of the Regional Corporation shall be vested in a board of directors, all of whom, with the exception of the initial board, shall be stockholders over the age of eighteen. The number, terms, and method of election of members of the board of directors shall be fixed in the articles of incorporation or bylaws of the Regional Corporation.

### (g) Issuance of stock

#### (1) Settlement Common Stock

(A) The Regional Corporation shall be authorized to issue such number of shares of Settlement Common Stock (divided into such classes as may be specified in the articles of incorporation to reflect the provisions of this chapter) as may be needed to issue one hundred shares of stock to each Native enrolled in

the region pursuant to section 1604 of this title.

(B)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock to—

(I) Natives born after December 18, 1971, and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,

(II) Natives who were eligible for enrollment pursuant to section 1604 of this title but were not so enrolled, or

(III) Natives who have attained the age of 65,

for no consideration or for such consideration and upon such terms and conditions as may be specified in such amendment or in a resolution approved by the board of directors pursuant to authority expressly vested in the board by the amendment. The amendment to the articles of incorporation may specify which class of Settlement Common Stock shall be issued to the various groups of Natives.

(ii) Not more than one hundred shares of Settlement Common Stock shall be issued to any one individual pursuant to clause (i).

(iii) CONDITIONS ON CERTAIN STOCK.—

(I) IN GENERAL.—An amendment under clause (i) may provide that Settlement Common Stock issued to a Native pursuant to the amendment (or stock issued in exchange for that Settlement Common Stock pursuant to subsection (h)(3) or section 1626(c)(3)(D) of this title) shall be subject to 1 or more of the conditions described in subclause (II).

(II) CONDITIONS.—A condition referred to in subclause (I) is a condition that—

(aa) the stock described in that subclause shall be deemed to be canceled on the death of the Native to whom the stock is issued, and no compensation for the cancellation shall be paid to the estate of the deceased Native or any person holding the stock;

(bb) the stock shall carry limited or no voting rights; and

(cc) the stock shall not be transferred by gift under subsection (h)(1)(C)(iii).

(iv) Settlement Common Stock issued pursuant to clause (i) shall not carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section unless, prior to the issuance of such stock, a majority of the class of existing holders of Settlement Common Stock carrying such rights separately approve the granting of such rights. The articles of incorporation of the Regional Corporation shall be deemed to be amended to authorize such class vote.

(C)(i) A Regional Corporation may amend its articles of incorporation to authorize the issuance of additional shares of Settlement Common Stock as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon each outstanding share of Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

(ii) The amendment authorized by clause (i) may provide that shares of Settlement Common Stock issued as a dividend or other distribution shall constitute a separate class of stock with greater per share voting power than Settlement Common Stock issued pursuant to subparagraphs (A) and (B).

**(2) Other forms of stock**

(A) A Regional Corporation may amend its articles of incorporation to authorize the issuance of shares of stock other than Settlement Common Stock in accordance with the provisions of this paragraph. Such amendment may provide that—

(i) preemptive rights of shareholders under the laws of the State shall not apply to the issuance of such shares, or

(ii) issuance of such shares shall permanently preclude the corporation from—

(I) conveying assets to a Settlement Trust, or

(II) issuing shares of stock without adequate consideration as required under the laws of the State.

(B) The amendment authorized by subparagraph (A) may provide that the stock to be issued shall be one or more of the following—

(i) divided into classes and series within classes, with preferences, limitations, and relative rights, including, without limitation—

(I) dividend rights,

(II) voting rights, and

(III) liquidation preferences;

(ii) made subject to one or more of—

(I) the restrictions on alienation described in clauses (i), (ii), and (iv) of subsection (h)(1)(B) of this section, and

(II) the restriction described in paragraph (1)(B)(iii); and

(iii) restricted in issuance to—

(I) Natives who have attained the age of sixty-five;

(II) other identifiable groups of Natives or identifiable groups of descendants of Natives defined in terms of general applicability and not in any way by reference to place of residence or family;

(III) Settlement Trusts; or

(IV) entities established for the sole benefit of Natives or descendants of Natives, in which the classes of beneficiaries are defined in terms of general applicability and not in any way by reference to place of residence, family, or position as an officer, director, or employee of a Native Corporation.

(C) The amendment authorized by subparagraph (A) shall provide that the additional shares of stock shall be issued—

(i) as a dividend or other distribution (without regard to surplus of the corporation under the laws of the State) upon all outstanding shares of stock of any class or series, or

(ii) for such consideration as may be permitted by law (except that this requirement may be waived with respect to issuance of stock to the individuals or entities described in subparagraph (B)(iii)).

(D) During any period in which alienability restrictions are in effect, no stock whose issu-

ance is authorized by subparagraph (A) shall be—

(i) issued to, or for the benefit of, a group of individuals composed only or principally of employees, officers, and directors of the corporation; or

(ii) issued more than thirteen months after the date on which the vote of the shareholders on the amendment authorizing the issuance of such stock occurred if, as a result of the issuance, the outstanding shares of Settlement Common Stock will represent less than a majority of the total voting power of the corporation for the purpose of electing directors.

**(3) Disclosure requirements**

(A) An amendment to the articles of incorporation of a Regional Corporation authorized by paragraph (2) shall specify—

(i) the maximum number of shares of any class or series of stock that may be issued, and

(ii) the maximum number of votes that may be held by such shares.

(B)(i) If the board of directors of a Regional Corporation intends to propose an amendment pursuant to paragraph (2) which would authorize the issuance of classes or series of stock that, singly or in combination, could cause the outstanding shares of Settlement Common Stock to represent less than a majority of the total voting power of the corporation for the purposes of electing directors, the shareholders of such corporation shall be expressly so informed.

(ii) Such information shall be transmitted to the shareholders in a separate disclosure statement or in another informational document in writing or in recorded sound form both in English and any Native language used by a shareholder of such corporation. Such statement or informational document shall be transmitted to the shareholders at least sixty days prior to the date on which such proposal is to be submitted for a vote.

(iii) If not later than thirty days after issuance of such disclosure statement or informational document the board of directors receives a prepared concise statement setting forth arguments in opposition to the proposed amendment together with a request for distribution thereof signed by the holders of at least 10 per centum of the outstanding shares of Settlement Common Stock, the board shall either distribute such statement to the shareholders or provide to the requesting shareholders a list of all shareholder's names and addresses so that the requesting shareholders may distribute such statement.

**(4) Savings**

(A)(i) No shares of stock issued pursuant to paragraphs (1)(C) and (2) shall carry rights to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section. No shares of stock issued pursuant to paragraph (1)(B) shall carry such rights unless authorized pursuant to paragraph (1)(B)(iv).

(ii) Notwithstanding the issuance of additional shares of stock pursuant to paragraphs[1] (1)(B), (1)(C), or (2), a Regional Corporation shall apply the ratio last computed pursuant to subsection (m) of this section prior to February 3, 1988, for purposes of distributing funds pursuant to subsections (j) and (m) of this section.

(B) The issuance of additional shares of stock pursuant to paragraphs[1] (1)(B), (1)(C), or (2) shall not affect the division and distribution of revenues pursuant to subsection (i) of this section.

(C) No provision of this chapter shall limit the right of a Regional Corporation to take an action authorized by the laws of the State unless such action is inconsistent with the provisions of this chapter.

**(h) Settlement Common Stock**

**(1) Rights and restrictions**

(A) Except as otherwise expressly provided in this chapter, Settlement Common Stock of a Regional Corporation shall—

(i) carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to shareholders;

(ii) permit the holder to receive dividends or other distributions from the corporation; and

(iii) vest in the holder all rights of a shareholder in a business corporation organized under the laws of the State.

(B) Except as otherwise provided in this subsection, Settlement Common Stock, inchoate rights thereto, and rights to dividends or distributions declared with respect thereto shall not be—

(i) sold;

(ii) pledged;

(iii) subjected to a lien or judgment execution;

(iv) assigned in present or future;

(v) treated as an asset under—

(I) title 11 or any successor statute,

(II) any other insolvency or moratorium law, or

(III) other laws generally affecting creditors' rights; or

(vi) otherwise alienated.

(C) Notwithstanding the restrictions set forth in subparagraph (B), Settlement Common Stock may be transferred to a Native or a descendant of a Native—

(i) pursuant to a court decree of separation, divorce, or child support;

(ii) by a holder who is a member of a professional organization, association, or board that limits his or her ability to practice his or her profession because he or she holds Settlement Common Stock; or

(iii) as an inter vivos gift from a holder to his or her child, grandchild, great-grandchild, niece, nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister, notwithstanding an adoption, relinquishment, or termination of parental rights that may have altered or severed the legal relationship between the gift donor and recipient.

[1] So in original. Probably should be "paragraph".

**(2) Inheritance of Settlement Common Stock**

(A) Upon the death of a holder of Settlement Common Stock, ownership of such stock (unless canceled in accordance with subsection (g)(1)(B)(iii) of this section) shall be transferred in accordance with the lawful will of such holder or pursuant to applicable laws of intestate succession. If the holder fails to dispose of his or her stock by will and has no heirs under applicable laws of intestate succession, the stock shall escheat to the issuing Regional Corporation and be canceled.

(B) The issuing Regional Corporation shall have the right to purchase at fair value Settlement Common Stock transferred pursuant to applicable laws of intestate succession to a person not a Native or a descendant of a Native after February 3, 1988, if—

(i) the corporation—

(I) amends its articles of incorporation to authorize such purchases, and

(II) gives the person receiving such stock written notice of its intent to purchase within ninety days after the date that the corporation either determines the decedent's heirs in accordance with the laws of the State or receives notice that such heirs have been determined, whichever later occurs; and

(ii) the person receiving such stock fails to transfer the stock pursuant to paragraph (1)(C)(iii) within sixty days after receiving such written notice.

(C) Settlement Common Stock of a Regional Corporation—

(i) transferred by will or pursuant to applicable laws of intestate succession after February 3, 1988, or

(ii) transferred by any means prior to February 3, 1988,

to a person not a Native or a descendant of a Native shall not carry voting rights. If at a later date such stock is lawfully transferred to a Native or a descendant of a Native, voting rights shall be automatically restored.

**(3) Replacement Common Stock**

(A) On the date on which alienability restrictions terminate in accordance with the provisions of section 1629c of this title, all Settlement Common Stock previously issued by a Regional Corporation shall be deemed canceled, and shares of Replacement Common Stock of the appropriate class shall be issued to each shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this chapter as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Replacement Common Stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by subsection (g)(1)(B)(iii) of this section shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that subsection.

(ii) Prior to the termination of alienability restrictions, the board of directors of the corporation shall approve a resolution to provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section shall be exchanged either for—

(I) a share of Replacement Common Stock that carries such right, or

(II) a share of Replacement Common Stock that does not carry such right together with a separate, non-voting security that represents only such right.

(iii) Replacement Common Stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) of this section shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(C) The articles of incorporation of the Regional Corporation shall be deemed amended to authorize the issuance of Replacement Common Stock and the security described in subparagraph (B)(ii)(II).

(D) Prior to the date on which alienability restrictions terminate, a Regional Corporation may amend its articles of incorporation to impose upon Replacement Common Stock one or more of the following—

(i) a restriction denying voting rights to any holder of Replacement Common Stock who is not a Native or a descendant of a Native;

(ii) a restriction granting the Regional Corporation, or the Regional Corporation and members of the shareholder's immediate family who are Natives or descendants of Natives, the first right to purchase, on reasonable terms, the Replacement Common Stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; and

(iii) any other term, restriction, limitation, or provision authorized by the laws of the State.

(E) Replacement Common Stock shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

**(4) Purchase of settlement common stock of Cook Inlet Region**

(A) As used in this paragraph, the term ''Cook Inlet Regional Corporation'' means Cook Inlet Region, Incorporated.

(B) The Cook Inlet Regional Corporation may, by an amendment to its articles of incorporation made in accordance with the voting standards under section 1629b(d)(1) of this title, purchase Settlement Common Stock of the Cook Inlet Regional Corporation and all rights associated with the stock from the shareholders of Cook Inlet Regional Corporation in accordance with any provisions in-

cluded in the amendment that relate to the terms, procedures, number of offers to purchase, and timing of offers to purchase.

(C) Subject to subparagraph (D), and notwithstanding paragraph (1)(B), the shareholders of Cook Inlet Regional Corporation may, in accordance with an amendment made pursuant to subparagraph (B), sell the Settlement Common Stock of the Cook Inlet Regional Corporation to itself.

(D) No sale or purchase may be made pursuant to this paragraph without the prior approval of the board of directors of Cook Inlet Regional Corporation. Except as provided in subparagraph (E), each sale and purchase made under this paragraph shall be made pursuant to an offer made on the same terms to all holders of Settlement Common Stock of the Cook Inlet Regional Corporation.

(E) To recognize the different rights that accrue to any class or series of shares of Settlement Common Stock owned by stockholders who are not residents of a Native village (referred to in this paragraph as ''non-village shares''), an amendment made pursuant to subparagraph (B) shall authorize the board of directors (at the option of the board) to offer to purchase—

(i) the non-village shares, including the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of this section (referred to in this paragraph as ''nonresident distribution rights''), at a price that includes a premium, in addition to the amount that is offered for the purchase of other village shares of Settlement Common Stock of the Cook Inlet Regional Corporation, that reflects the value of the nonresident distribution rights; or

(ii) non-village shares without the nonresident distribution rights associated with the shares.

(F) Any shareholder who accepts an offer made by the board of directors pursuant to subparagraph (E)(ii) shall receive, with respect to each non-village share sold by the shareholder to the Cook Inlet Regional Corporation—

(i) the consideration for a share of Settlement Common Stock offered to shareholders of village shares; and

(ii) a security for only the nonresident rights that attach to such share that does not have attached voting rights (referred to in this paragraph as a ''non-voting security'').

(G) An amendment made pursuant to subparagraph (B) shall authorize the issuance of a non-voting security that—

(i) shall, for purposes of subsections (j) and (m) of this section, be treated as a non-village share with respect to—

(I) computing distributions under such subsections; and

(II) entitling the holder of the share to the proportional share of the distributions made under such subsections;

(ii) may be sold to Cook Inlet Region, Inc.; and

(iii) shall otherwise be subject to the restrictions under paragraph (1)(B).

(H) Any shares of Settlement Common Stock purchased pursuant to this paragraph shall be canceled on the conditions that—

(i) non-village shares with the nonresident rights that attach to such shares that are purchased pursuant to this paragraph shall be considered to be—

(I) outstanding shares; and

(II) for the purposes of subsection (m) of this section, shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of nonresidents of villages;

(ii) any amount of funds that would be distributable with respect to non-village shares or non-voting securities pursuant to subsection (j) or (m) of this section shall be distributed by Cook Inlet Regional Corporation to itself; and

(iii) village shares that are purchased pursuant to this paragraph shall be considered to be—

(I) outstanding shares, and

(II) for the purposes of subsection (k) of this section shares of stock registered on the books of the Cook Inlet Regional Corporation in the names of the residents of villages.

(I) Any offer to purchase Settlement Common Stock made pursuant to this paragraph shall exclude from the offer—

(i) any share of Settlement Common Stock held, at the time the offer is made, by an officer (including a member of the board of directors) of Cook Inlet Regional Corporation or a member of the immediate family of the officer; and

(ii) any share of Settlement Common Stock held by any custodian, guardian, trustee, or attorney representing a shareholder of Cook Inlet Regional Corporation in fact or law, or any other similar person, entity, or representative.

(J)(i) The board of directors of Cook Inlet Regional Corporation, in determining the terms of an offer to purchase made under this paragraph, including the amount of any premium paid with respect to a non-village share, may rely upon the good faith opinion of a recognized firm of investment bankers or valuation experts.

(ii) Neither Cook Inlet Regional Corporation nor a member of the board of directors or officers of Cook Inlet Regional Corporation shall be liable for damages resulting from terms made in an offer made in connection with any purchase of Settlement Common Stock if the offer was made—

(I) in good faith;

(II) in reliance on a determination made pursuant to clause (i); and

(III) otherwise in accordance with this paragraph.

(K) The consideration given for the purchase of Settlement Common Stock made pursuant to an offer to purchase that provides for such consideration may be in the form of cash, securities, or a combination of cash and securities, as determined by the board of directors of

Cook Inlet Regional Corporation, in a manner consistent with an amendment made pursuant to subparagraph (B).

(L) Sale of Settlement Common Stock in accordance with this paragraph shall not diminish a shareholder's status as an Alaska Native or descendant of a Native for the purpose of qualifying for those programs, benefits and services or other rights or privileges set out for the benefit of Alaska Natives and Native Americans. Proceeds from the sale of Settlement Common Stock shall not be excluded in determining eligibility for any needs-based programs that may be provided by Federal, State or local agencies.

**(i) Certain natural resource revenues; distribution among twelve Regional Corporations; computation of amount; subsection inapplicable to thirteenth Regional Corporation; exclusion from revenues**

(1)(A) Except as provided by subparagraph (B), 70 percent of all revenues received by each Regional Corporation from the timber resources and subsurface estate patented to it pursuant to this chapter shall be divided annually by the Regional Corporation among all twelve Regional Corporations organized pursuant to this section according to the number of Natives enrolled in each region pursuant to section 1604 of this title. The provisions of this subsection shall not apply to the thirteenth Regional Corporation if organized pursuant to subsection (c) hereof.

(B) In the case of the sale, disposition, or other use of common varieties of sand, gravel, stone, pumice, peat, clay, or cinder resources made during a fiscal year ending after October 31, 1998, the revenues received by a Regional Corporation shall not be subject to division under subparagraph (A). Nothing in this subparagraph is intended to or shall be construed to alter the ownership of such sand, gravel, stone, pumice, peat, clay, or cinder resources.

(2) For purposes of this subsection, the term ''revenues'' does not include any benefit received or realized for the use of losses incurred or credits earned by a Regional Corporation.

**(j) Corporate funds and other net income, distribution among: stockholders of Regional Corporations; Village Corporations and nonresident stockholders; and stockholders of thirteenth Regional Corporation**

During the five years following December 18, 1971, not less than 10% of all corporate funds received by each of the twelve Regional Corporations under section 1605 of this title (Alaska Native Fund), and under subsection (i) of this section (revenues from the timber resources and subsurface estate patented to it pursuant to this chapter), and all other net income, shall be distributed among the stockholders of the twelve Regional Corporations. Not less than 45% of funds from such sources during the first five-year period, and 50% thereafter, shall be distributed among the Village Corporations in the region and the class of stockholders who are not residents of those villages, as provided in subsection[2] to it. In the case of the thirteenth Regional Corporation, if organized, not less than 50% of all corporate funds received under section 1605 of this title shall be distributed to the stockholders.

**(k) Distributions among Village Corporations; computation of amount**

Funds distributed among the Village Corporations shall be divided among them according to the ratio that the number of shares of stock registered on the books of the Regional Corporation in the names of residents of each village bears to the number of shares of stock registered in the names of residents in all villages.

**(*l*) Distributions to Village Corporations; village plan: withholding funds until submission of plan for use of money; joint ventures and joint financing of projects; disagreements, arbitration of issues as provided in articles of Regional Corporation**

Funds distributed to a Village Corporation may be withheld until the village has submitted a plan for the use of the money that is satisfactory to the Regional Corporation. The Regional Corporation may require a village plan to provide for joint ventures with other villages, and for joint financing of projects undertaken by the Regional Corporation that will benefit the region generally. In the event of disagreement over the provisions of the plan, the issues in disagreement shall be submitted to arbitration, as shall be provided for in the articles of incorporation of the Regional Corporation.

**(m) Distributions among Village Corporations in a region; computation of dividends for nonresidents of village; financing regional projects with equitably withheld dividends and Village Corporation funds**

When funds are distributed among Village Corporations in a region, an amount computed as follows shall be distributed as dividends to the class of stockholders who are not residents of those villages: The amount distributed as dividends shall bear the same ratio to the amount distributed among the Village Corporations that the number of shares of stock registered on the books of the Regional Corporation in the names of nonresidents of villages bears to the number of shares of stock registered in the names of village residents: *Provided*, That an equitable portion of the amount distributed as dividends may be withheld and combined with Village Corporation funds to finance projects that will benefit the region generally.

**(n) Projects for Village Corporations**

The Regional Corporation may undertake on behalf of one or more of the Village Corporations in the region any project authorized and financed by them.

**(*o*) Annual audit; place; availability of papers, things, or property to auditors to facilitate audits; verification of transactions; report to stockholders**

The accounts of the Regional Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of the State or the United States. The audits shall be con-

[2] So in original.

ducted at the place or places where the accounts of the Regional Corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by the Regional Corporation and necessary to facilitate the audits shall be available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agent, and custodians shall be afforded to such person or persons. Each audit report or a fair and reasonably detailed summary thereof shall be transmitted to each stockholder.

**(p) Federal-State conflict of laws**

In the event of any conflict between the provisions of this section and the laws of the State of Alaska, the provisions of this section shall prevail.

**(q) Business management group; investment services contracts**

Two or more Regional Corporations may contract with the same business management group for investment services and advice regarding the investment of corporate funds.

**(r) Benefits for shareholders or immediate families**

The authority of a Native Corporation to provide benefits to its shareholders who are Natives or descendants of Natives or to its shareholders' immediate family members who are Natives or descendants of Natives to promote the health, education, or welfare of such shareholders or family members is expressly authorized and confirmed. Eligibility for such benefits need not be based on share ownership in the Native Corporation and such benefits may be provided on a basis other than pro rata based on share ownership.

(Pub. L. 92–203, § 7, Dec. 18, 1971, 85 Stat. 691; Pub. L. 96–487, title XIV, § 1401(a), (c), Dec. 2, 1980, 94 Stat. 2491, 2492; Pub. L. 100–241, §§ 4, 5, 12(a), Feb. 3, 1988, 101 Stat. 1790, 1792, 1810; Pub. L. 102–415, §§ 4, 8, Oct. 14, 1992, 106 Stat. 2113, 2114; Pub. L. 104–10, § 1(a), May 18, 1995, 109 Stat. 155; Pub. L. 104–42, title I, § 109(a), Nov. 2, 1995, 109 Stat. 357; Pub. L. 105–333, §§ 8, 12, Oct. 31, 1998, 112 Stat. 3134, 3135; Pub. L. 106–194, § 2, May 2, 2000, 114 Stat. 242; Pub. L. 110–453, title II, § 206, Dec. 2, 2008, 122 Stat. 5030.)

AMENDMENTS

2008—Subsec. (g)(1)(B)(iii). Pub. L. 110–453 added cl. (iii) and struck out former cl. (iii) which read as follows: ''The amendment authorized by clause (i) may provide that Settlement Common Stock issued to a Native pursuant to such amendment (or stock issued in exchange for such Settlement Common Stock pursuant to subsection (h)(3) of this section or section 1629c(d) of this title) shall be deemed canceled upon the death of such Native. No compensation for this cancellation shall be paid to the estate of the deceased Native or to any person holding the stock.''

2000—Subsec. (h)(1)(C)(iii). Pub. L. 106–194 inserted before period at end '', notwithstanding an adoption, relinquishment, or termination of parental rights that may have altered or severed the legal relationship between the gift donor and recipient''.

1998—Subsec. (i)(1). Pub. L. 105–333, § 8(1), substituted ''(A) Except as provided by subparagraph (B), 70 percent'' for ''Seventy per centum''.

Pub. L. 105–333, § 8(2), which directed the addition of subpar. (B) at the end of subsec. (i), was executed by adding subpar. (B) at the end of par. (1) of subsec. (i) to reflect the probable intent of Congress.

Subsec. (r). Pub. L. 105–333, § 12, added subsec. (r).

1995—Subsec. (h)(4). Pub. L. 104–10 added par. (4).

Subsec. (i). Pub. L. 104–42 designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (g)(1)(B)(i)(I). Pub. L. 102–415, § 8, inserted at end ''and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,''.

Subsec. (h)(1)(C)(iii). Pub. L. 102–415, § 4, substituted ''nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister'' for ''or nephew''.

1988—Subsec. (g). Pub. L. 100–241, § 4, amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''The Regional Corporation shall be authorized to issue such number of shares of common stock, divided into such classes of shares as may be specified in the articles of incorporation to reflect the provisions of this chapter, as may be needed to issue one hundred shares of stock to each Native enrolled in the region pursuant to section 1604 of this title.''

Subsec. (h)(1), (2). Pub. L. 100–241, § 5, amended pars. (1) and (2) generally, changing structure of each from a single unlettered paragraph to one consisting of subpars. (A) to (C).

Subsec. (h)(3). Pub. L. 100–241, § 5, amended par. (3) generally, revising and restating as subpars. (A) to (E) provisions of former subpars. (A) to (C).

Subsec. (*o*). Pub. L. 100–241, § 12(a), struck out '', to the Secretary of the Interior and to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives'' after ''to each stockholder'' in last sentence.

1980—Subsec. (h)(1). Pub. L. 96–487, § 1401(c), inserted ''or by stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this chapter'' after ''divorce or child support''. Section 1401(c) of Pub. L. 96–487 directed that section 1696(h)(1) of this title be amended, however, since no section 1696 of this title has been enacted, amendment was executed to subsec. (h)(1) of this section to reflect the probable intent of Congress.

Subsec. (h)(3). Pub. L. 96–487, § 1401(a), substituted provisions that provided on Dec. 18, 1991, all stock previously issued be deemed canceled, and shares of stock of the appropriate class be issued to each shareholder share for share subject only to such restrictions as provided by the articles of incorporation, or agreement between the corporation and individual, specified restrictions which may be included by amendment in the articles of incorporation, and provided voting requirements for amendment of the articles of incorporation for approval of restrictions and the grant of voting rights to stockholders who were previously denied such rights for provision that provided on Jan. 1 of the twenty-first year after the year in which this chapter was enacted, all stock previously issued be deemed canceled and the shares of stock of the appropriate class issued without restrictions required by this chapter to each stockholder share for share.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 109(b) of Pub. L. 104–42 provided that: ''This amendment [amending this section] shall be effective as of the date of enactment of the Alaska Native Claims Settlement Act, Public Law 92–203 (43 U.S.C. 1601, et seq.) [Dec. 18, 1971].''

## § 1607. Village Corporations

**(a) Organization of Corporation prerequisite to receipt of patent to lands or benefits under chapter**

The Native residents of each Native village entitled to receive lands and benefits under this

chapter shall organize as a business for profit or nonprofit corporation under the laws of the State before the Native village may receive patent to lands or benefits under this chapter, except as otherwise provided.

**(b) Regional Corporation: approval of initial articles; review and approval of amendments to articles and annual budgets; assistance in preparation of articles and other documents**

The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Regional Corporation for the region in which the village is located. Amendments to the articles of incorporation and the annual budgets of the Village Corporations shall, for a period of five years, be subject to review and approval by the Regional Corporation. The Regional Corporation shall assist and advise Native villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

**(c) Applicability of section 1606**

The provisions of subsections (g), (h) (other than paragraph (4)), and (*o*) of section 1606 of this title shall apply in all respects to Village Corporations, Urban Corporations, and Group Corporations.

(Pub. L. 92–203, § 8, Dec. 18, 1971, 85 Stat. 694; Pub. L. 96–487, title XIV, § 1401(b), Dec. 2, 1980, 94 Stat. 2492; Pub. L. 100–241, § 6, Feb. 3, 1988, 101 Stat. 1795; Pub. L. 104–10, § 1(b), May 18, 1995, 109 Stat. 157.)

AMENDMENTS

1995—Subsec. (c). Pub. L. 104–10 substituted ''(h) (other than paragraph (4))'' for ''(h)''.

1988—Subsec. (c). Pub. L. 100–241 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 1606 of this title, including the provisions of section 1606(h)(3) of this title shall apply to Village Corporations Urban Corporations and Native Groups; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.''

1980—Subsec. (c). Pub. L. 96–487 inserted provision making provisions of section 1606 of this title, including section 1606(h)(3) of this title, applicable to Village Corporations, Urban Corporations, and Native Groups and substituted provision that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or the Committee on Energy and Natural Resources of the Senate for provision that audits need not be transmitted to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives.

## § 1608. Revenue sharing

**(a) Minerals within section**

The provisions of this section shall apply to all minerals that are subject to disposition under the Mineral Leasing Act of 1920, as amended and supplemented [30 U.S.C. 181 et seq.].

**(b) Interim payments into Alaska Native Fund based on percentage of gross value of produced or removed minerals and of rentals and bonuses; time of payment**

With respect to conditional leases and sales of minerals heretofore or hereafter made pursuant to section 6(g) of the Alaska Statehood Act, and with respect to mineral leases of the United States that are or may be subsumed by the State under section 6(h) of the Alaska Statehood Act, until such time as the provisions of subsection (c) of this section become operative the State shall pay into the Alaska Native Fund from the royalties, rentals, and bonuses hereafter received by the State (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under such leases or sales) of such minerals produced or removed from such lands, and (2) 2 per centum of all rentals and bonuses under such leases or sales, excluding bonuses received by the State at the September 1969 sale of minerals from tentatively approved lands and excluding rentals received pursuant to such sale before December 18, 1971. Such payment shall be made within sixty days from the date the revenues are received by the State.

**(c) Patents; royalties: reservation of percentage of gross value of produced or removed minerals and of rentals and bonuses from disposition of minerals**

Each patent hereafter issued to the State under the Alaska Statehood Act, including a patent of lands heretofore selected and tentatively approved, shall reserve for the benefit of the Natives, and for payment into the Alaska Native Fund, (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any disposition by the State) of the minerals thereafter produced or removed from such lands, and (2) 2 per centum of all revenues thereafter derived by the State from rentals and bonuses from the disposition of such minerals.

**(d) Distribution of bonuses, rentals, and royalties from Federal disposition of minerals in public lands; payments into Alaska Native Fund based on percentage of gross value of produced minerals and of rentals and bonuses; Federal and State share calculation on remaining balance**

All bonuses, rentals, and royalties received by the United States after December 18, 1971, from the disposition by it of such minerals in public lands in Alaska shall be distributed as provided in the Alaska Statehood Act, except that prior to calculating the shares of the State and the United States as set forth in such Act, (1) a royalty of 2 per centum upon the gross value of such minerals produced (as such gross value is determined for royalty purposes under the sale or lease), and (2) 2 per centum of all rentals and bonuses shall be deducted and paid into the Alaska Native Fund. The respective shares of the State and the United States shall be calculated on the remaining balance.

**(e) Federal enforcement; State underpayment: deductions from grants-in-aid or other Federal assistance equal to underpayment and deposit of such amount in Fund**

The provisions of this section shall be enforceable by the United States for the benefit of the Natives, and in the event of default by the State in making the payments required, in addition to any other remedies provided by law, there shall

be deducted annually by the Secretary of the Treasury from any grant-in-aid or from any other sums payable to the State under any provision of Federal law an amount equal to any such underpayment, which amount shall be deposited in the Fund.

**(f) Oil and gas revenues; amount payable equal to Federal or State royalties in cash or kind**

Revenues received by the United States or the State as compensation for estimated drainage of oil or gas shall, for the purposes of this section, be regarded as revenues from the disposition of oil and gas. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

**(g) Alaska Native Fund payments; cessation; reimbursement for advance payments**

The payments required by this section shall continue only until a sum of $500,000,000 has been paid into the Alaska Native Fund less the total of advance payments paid into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipeline Authorization Act. Thereafter, payments which would otherwise go into the Alaska Native Fund will be made to the United States Treasury as reimbursement for the advance payments authorized by section 407 of the Trans-Alaskan Pipeline Authorization Act. The provisions of this section shall no longer apply, and the reservation required in patents under this section shall be of no further force and effect, after a total sum of $500,000,000 has been paid to the Alaska Native Fund and to the United States Treasury pursuant to this subsection.

**(h) Final payment; order of computation**

When computing the final payment into the Fund the respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsections (b) and (c) hereof; and

(2) then, from sources identified under subsection (d) hereof.

**(i) Outer Continental Shelf mineral revenues; provisions of section inapplicable**

The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

(Pub. L. 92–203, § 9, Dec. 18, 1971, 85 Stat. 694; Pub. L. 93–153, title IV, § 407(b), Nov. 16, 1973, 87 Stat. 591.)

REFERENCES IN TEXT

The Mineral Leasing Act of 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

The Alaska Statehood Act, referred to in subsecs. (b), (c), and (d), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48. For complete classification of this Act to the Code, see Tables.

Section 407 of the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (g), probably means section 407(a) of Pub. L. 93–153, which is set out as a note below.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93–153 inserted provisions covering advance payments into the Alaska Native Fund pursuant to section 407 of the Trans-Alaska Pipeline Authorization Act and the reimbursement of the United States Treasury for payments made.

ADVANCE PAYMENTS TO ALASKA NATIVES UNTIL COMMENCEMENT OF DELIVERIES OF NORTH SLOPE CRUDE OIL TO PIPELINE

Section 407(a) of Pub. L. 93–153 authorized $5,000,000 to be paid from the United States Treasury to the Alaska Native Fund every six months of each fiscal year beginning with the fiscal year ending June 30, 1976, as advance payments chargeable against revenues paid under this section until delivery of North Slope crude oil to a pipeline commenced.

## § 1609. Limitation of actions

**(a) Complaint, time for filing; jurisdiction; commencement by State official; certainty and finality of vested rights, titles, and interests**

Notwithstanding any other provision of law, any civil action to contest the authority of the United States to legislate on the subject matter or the legality of this chapter shall be barred unless the complaint is filed within one year of December 18, 1971, and no such action shall be entertained unless it is commenced by a duly authorized official of the State. Exclusive jurisdiction over such action is hereby vested in the United States District Court for the District of Alaska. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title, and interest of the United States, the Natives, and the State of Alaska will vest with certainty and finality and may be relied upon by all other persons in their relations with the State, the Natives, and the United States.

**(b) Land selection; suspension and extension of rights**

In the event that the State initiates litigation or voluntarily becomes a party to litigation to contest the authority of the United States to legislate on the subject matter or the legality of this chapter, all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary to be potentially valuable for mineral development, timber, or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation. In the event of such suspension, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act shall be extended for a period of time equal to the period of time the selection right was suspended.

(Pub. L. 92–203, § 10, Dec. 18, 1971, 85 Stat. 696.)

REFERENCES IN TEXT

The Alaska Statehood Act and section 6 of the Alaska Statehood Act, referred to in subsec. (b), are Pub. L.

85–508, July 7, 1958, 72 Stat. 339, and section 6 thereof, as amended, and are set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

### § 1610. Withdrawal of public lands

**(a) Description of withdrawn public lands; exceptions; National Wildlife Refuge lands exception; time of withdrawal**

(1) The following public lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

(A) The lands in each township that encloses all or part of any Native village identified pursuant to subsection (b) of this section;

(B) The lands in each township that is contiguous to or corners on the township that encloses all or part of such Native village; and

(C) The lands in each township that is contiguous to or corners on a township containing lands withdrawn by paragraph (B) of this subsection.

The following lands are excepted from such withdrawal: lands in the National Park System and lands withdrawn or reserved for national defense purposes other than Naval Petroleum Reserve Numbered 4.

(2) All lands located within the townships described in subsection (a)(1) hereof that have been selected by, or tentatively approved to, but not yet patented to, the State under the Alaska Statehood Act are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from the creation of third party interests by the State under the Alaska Statehood Act.

(3)(A) If the Secretary determines that the lands withdrawn by subsections (a)(1) and (2) hereof are insufficient to permit a Village or Regional Corporation to select the acreage it is entitled to select, the Secretary shall withdraw three times the deficiency from the nearest unreserved, vacant and unappropriated public lands. In making this withdrawal the Secretary shall, insofar as possible, withdraw public lands of a character similar to those on which the village is located and in order of their proximity to the center of the Native village: *Provided*, That if the Secretary, pursuant to section 1616, and 1621(e) of this title determines there is a need to expand the boundaries of a National Wildlife Refuge to replace any acreage selected in the Wildlife Refuge System by the Village Corporation the withdrawal under this section shall not include lands in the Refuge.

(B) The Secretary shall make the withdrawal provided for in subsection (3)(A) hereof on the basis of the best available information within sixty days of December 18, 1971, or as soon thereafter as practicable.

**(b) List of Native villages subject to chapter; review; eligibility for benefits; expiration of withdrawals for villages; alternative eligibility; eligibility of unlisted villages**

(1) The Native villages subject to this chapter are as follows:

NAME OF PLACE AND REGION

Afognak, Afognak Island.
Akhiok, Kodiak.
Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alakanuk, Southwest Coastal Lowland.
Alatna, Koyukuk-Lower Yukon.
Aleknagik, Bristol Bay.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk, Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.
Arctic Village, Upper Yukon-Porcupine.
Atka, Aleutian.
Atkassok, Arctic Slope.
Atmautlauk, Southwest Coastal Lowland.
Barrow, Arctic Slope.
Beaver, Upper Yukon-Porcupine.
Belkofsky, Aleutian.
Bethel, Southwest Coastal Lowland.
Bill Moore's, Southwest Coastal Lowland.
Biorka, Aleutian.
Birch Creek, Upper Yukon-Porcupine.
Brevig Mission, Bering Strait.
Buckland, Bering Strait.
Candle, Bering Strait.
Cantwell, Tanana.
Canyon Village, Upper Yukon-Porcupine.
Chalkyitsik, Upper Yukon-Porcupine.
Chanilut, Southwest Coastal Lowland.
Cherfornak, Southwest Coastal Lowland.
Chevak, Southwest Coastal Lowland.
Chignik, Kodiak.
Chignik Lagoon, Kodiak.
Chignik Lake, Kodiak.
Chistochina, Copper River.
Chitina, Copper River.
Chukwuktoligamute, Southwest Coastal Lowland.
Circle, Upper Yukon-Porcupine.
Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Dot Lake, Tanana.
Eagle, Upper Yukon-Porcupine.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekuk, Bristol Bay.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Galena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Grayling, Koyukuk-Lower Yukon.
Gulkana, Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.

Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaguyak, Kodiak.
Katovik, Arctic Slope.
Kalskag, Southwest Coastal Lowland.
Kaltag, Koyukuk-Lower Yukon.
Karluk, Kodiak.
Kasigluk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Kokhanok, Bristol Bay.
Koliganek, Bristol Bay.
Kongiganak, Southwest Coastal Lowland.
Kotlik, Southwest Coastal Lowland.
Kotzebue, Bering Strait.
Koyuk, Bering Strait.
Koyukuk, Koyukuk-Lower Yukon.
Kwethluk, Southwest Coastal Lowland.
Kwigillingok, Southwest Coastal Lowland.
Larsen Bay, Kodiak.
Levelock, Bristol Bay.
Lime Village, Upper Kuskokwim.
Lower Kalskag, Southwest Coastal Lowland.
McGrath, Upper Kuskokwim.
Makok, Koyukuk-Lower Yukon.
Manley Hot Springs, Tanana.
Manokotak, Bristol Bay.
Marshall, Southwest Coastal Lowland.
Mary's Igloo, Bering Strait.
Medfra, Upper Kuskokwim.
Mekoryuk, Southwest Coastal Lowland.
Mentasta Lake, Copper River.
Minchumina Lake, Upper Kuskokwim.
Minto, Tanana.
Mountain Village, Southwest Coastal Lowland.
Nabesna Village, Tranana.
Naknek, Bristol Bay.
Napaimute, Upper Kuskokwim.
Napakiak, Southwest Coastal Lowland.
Napaskiak, Southwest Coastal Lowland.
Nelson Lagoon, Aleutian.
Nenana, Tanana.
Newhalen, Cook Inlet.
New Stuyahok, Bristol Bay.
Newtok, Southwest Coastal Lowland.
Nightmute, Southwest Coastal Lowland.
Nikolai, Upper Kuskokwim.
Nikolski, Aleutian.
Ninilchik, Cook Inlet.
Noatak, Bering Strait.
Nome, Bering Strait.
Nondalton, Cook Inlet.
Nooiksut, Arctic Slope.
Noorvik, Bering Strait.
Northeast Cape, Bering Sea.
Northway, Tanana.
Nulato, Koyukuk-Lower Yukon.
Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Pauloff Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Pilot Point, Bristol Bay.
Pilot Station, Southwest Coastal Lowland.
Pitkas Point, Southwest Coastal Lowland.
Platinum, Southwest Coastal Lowland.
Point Hope, Arctic Slope.
Point Lay, Arctic Slope.
Portage Creek (Ohgsenakale), Bristol Bay.
Port Graham, Cook Inlet.
Port Heiden (Meshick), Aleutian.
Port Lions, Kodiak.
Quinhagak, Southwest Coastal Lowland.
Rampart, Upper Yukon-Porcupine.
Red Devil, Upper Kuskokwim.
Ruby, Koyukuk-Lower Yukon.
Russian Mission or Chauthalue (Kuskokwim), Upper Kuskokwim.
Russian Mission (Yukon), Southwest Coastal Lowland.
St. George, Aleutian.
St. Mary's, Southwest Coastal Lowland.
St. Michael, Bering Strait.
St. Paul, Aleutian.
Salamatof, Cook Inlet.
Sand Point, Aleutian.
Savonoski, Bristol Bay.
Savoonga, Bering Sea.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Seldovia, Cook Inlet.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland.
Shishmaref, Bering Strait.
Shungnak, Bering Strait.
Slana, Copper River.
Sleetmute, Upper Kuskokwim.
South Naknek, Bristol Bay.
Squaw Harbor, Aleutian.
Stebbins, Bering Strait.
Stevens Village, Upper Yukon-Porcupine.
Stony River, Upper Kuskokwim.
Takotna, Upper Kuskokwim.
Tanacross, Tanana.
Tanana, Koyukuk-Lower Yukon.
Tatilek, Chugach.
Tazlina, Copper River.
Telida, Upper Kuskokwim.
Teller, Bering Strait.
Tetlin, Tanana.
Togiak, Bristol Bay.
Toksook Bay, Southwest Coastal Lowland.
Tulusak, Southwest Coastal Lowland.
Tuntutuliak, Southwest Coastal Lowland.
Tununak, Southwest Coastal Lowland.
Twin Hills, Bristol Bay.
Tyonek, Cook Inlet.
Ugashik, Bristol Bay.
Unalakleet, Bering Strait.
Unalaska, Aleutian.
Unga, Aleutian.
Uyak, Kodiak.
Venetie, Upper Yukon-Porcupine.
Wainwright, Arctic Slope.
Wales, Bering Strait.
White Mountain, Bering Strait.

(2) Within two and one-half years from December 18, 1971, the Secretary shall review all of the

villages listed in subsection (b)(1) hereof, and a village shall not be eligible for land benefits under section 1613(a) and (b) of this title, and any withdrawal for such village shall expire, if the Secretary determines that—

(A) less than twenty-five Natives were residents of the village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; or

(B) the village is of a modern and urban character, and the majority of the residents are non-Native.

Any Native group made ineligible by this subsection shall be considered under section 1613(h) of this title.

(3) Native villages not listed in subsection (b)(1) hereof shall be eligible for land and benefits under this chapter and lands shall be withdrawn pursuant to this section if the Secretary within two and one-half years from December 18, 1971, determines that—

(A) twenty-five or more Natives were residents of an established village on the 1970 census enumeration date as shown by the census or other evidence satisfactory to the Secretary, who shall make findings of fact in each instance; and

(B) the village is not of a modern and urban character, and a majority of the residents are Natives.

(Pub. L. 92–203, § 11, Dec. 18, 1971, 85 Stat. 696.)

REFERENCES IN TEXT

The Alaska Statehood Act, as amended, referred to in subsec. (a)(1), (2), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

### § 1611. Native land selections

#### (a) Acreage limitation; proximity of selections and size of sections and units; waiver

(1) During a period of three years from December 18, 1971, the Village Corporation for each Native village identified pursuant to section 1610 of this title shall select, in accordance with rules established by the Secretary, all of the township or townships in which any part of the village is located, plus an area that will make the total selection equal to the acreage to which the village is entitled under section 1613 of this title. The selection shall be made from lands withdrawn by section 1610(a) of this title: *Provided*, That no Village Corporation may select more than 69,120 acres from lands withdrawn by section 1610(a)(2) of this title, and not more than 69,120 acres from the National Wildlife Refuge System, and not more than 69,120 acres in a National Forest: *Provided further*, That when a Village Corporation selects the surface estate to lands within the National Wildlife Refuge System or Naval Petroleum Reserve Numbered 4, the Regional Corporation, for that region may select the subsurface estate in an equal acreage from other lands withdrawn in section 1610(a) of this title within the region, if possible.

(2) Selections made under this subsection (a) of this section shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than 1,280 acres: *Provided*, That the Secretary in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this chapter.

#### (b) Allocation; reallocation considerations

The difference between twenty-two million acres and the total acreage selected by Village Corporations pursuant to subsection (a) of this section shall be allocated by the Secretary among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) on the basis of the number of Natives enrolled in each region. Each Regional Corporation shall, not later than October 1, 2005, reallocate such acreage among the Native villages within the region on an equitable basis after considering historic use, subsistence needs, and population. The action of the Secretary or the Corporation shall not be subject to judicial review. Each Village Corporation shall select the acreage allocated to it from the lands withdrawn by section 1610(a) of this title.

#### (c) Computation

The difference between thirty-eight million acres and the 22 million acres selected by Village Corporations pursuant to subsections (a) and (b) of this section shall be allocated among the eleven Regional Corporations (which excludes the Regional Corporation for southeastern Alaska) as follows:

(1) The number of acres each Regional Corporation is entitled to receive shall be computed (A) by determining on the basis of available data the percentages of all land in Alaska (excluding the southeastern region) that is within each of the eleven regions, (B) by applying that percentage to thirty-eight million acres reduced by the acreage in the southeastern region that is to be selected pursuant to section 1615 of this title, and (C) by deducting from the figure so computed the number of acres within that region selected pursuant to subsections (a) and (b) of this section.

(2) In the event that the total number of acres selected within a region pursuant to subsections (a) and (b) of the section exceeds the percentage of the reduced thirty-eight million acres allotted to that region pursuant to subsection (c)(1)(B) of this section, that region shall not be entitled to receive any lands under this sub-

section (c). For each region so affected the difference between the acreage calculated pursuant to subsection (c)(1)(B) of this section and the acreage selected pursuant to subsections (a) and (b) of this section shall be deducted from the acreage calculated under subsection (c)(1)(C) of this section for the remaining regions which will select lands under this subsection (c). The reductions shall be apportioned among the remaining regions so that each region's share of the total reduction bears the same proportion to the total reduction as the total land area in that region (as calculated pursuant to subsection (c)(1)(A) of this section[1] bears to the total land area in all of the regions whose allotments are to be reduced pursuant to this paragraph.

(3) Before the end of the fourth year after December 18, 1971, each Regional Corporation shall select the acreage allocated to it from the lands within the region withdrawn pursuant to section 1610(a)(1) of this title, and from the lands within the region withdrawn pursuant to section 1610(a)(3) of this title to the extent lands withdrawn pursuant to section 1610(a)(1) of this title are not sufficient to satisfy its allocation: *Provided*, That within the lands withdrawn by section 1610(a)(1) of this title the Regional Corporation may select only even numbered townships in even numbered ranges, and only odd numbered townships in odd numbered ranges.

(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this chapter, the Regional Corporations may select as follows:

(A) Where such public lands were not withdrawn pursuant to section 1610(a)(3) of this title, but are surrounded by or contiguous to lands withdrawn pursuant to section 1610(a)(3) of this title, and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected.

(B) Where such public lands were withdrawn pursuant to section 1610(a)(1) of this title and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

(C) Where such public lands are surrounded by or contiguous to subsurface lands obtained by a Regional Corporation under subsections[2] (a) or (b) of this section, the Corporation may, upon request, have such public land conveyed to it.

(D)(i) A Regional Corporation which elects to obtain public lands under subparagraph (C) shall be limited to a total of not more than 12,000 acres. Selection by a Regional Corporation of in lieu surface acres under subparagraph (E) pursuant to an election under subparagraph (C) shall not be made from any lands within a conservation system unit (as that term is defined by section 3102(4) of title 16).

(ii) An election to obtain the public lands described in subparagraph (A), (B), or (C) shall include all available parcels within the township in which the public lands are located.

(iii) For purposes of this subparagraph and subparagraph (C), the term ''Regional Corporation'' shall refer only to Doyon, Limited.

(E) Where the Regional Corporation elects to obtain such public lands under subparagraph (A), (B), or (C) of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection (a)(1) of this section or section 1613(h)(9) of this title, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 1616(d)(1) of this title.

(F) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on December 18, 1971.

(5) Subparagraphs (A), (B), and (C) of paragraph (4) shall apply, notwithstanding the failure of the Regional Corporation to have appealed the rejection of a selection during the conveyance of the relevant surface estate.

**(d) Village Corporation for Native village at Dutch Harbor; lands and improvements and patent for Village Corporation**

To insure that the Village Corporation for the Native village at Dutch Harbor, if found eligible for land grants under this chapter, has a full opportunity to select lands within and near the village, no federally owned lands, whether improved or not, shall be disposed of pursuant to the Federal surplus property disposal laws for a period of two years from December 18, 1971. The Village Corporation may select such lands and improvements and receive patent to them pursuant to section 1613(a) of this title.

**(e) Disputes over land selection rights and boundaries; arbitration**

Any dispute over the land selection rights and the boundaries of Village Corporations shall be resolved by a board of arbitrators consisting of one person selected by each of the Village Corporations involved, and an additional one or two persons, whichever is needed to make an odd number of arbitrators, such additional person or persons to be selected by the arbitrators selected by the Village Corporations.

[1] So in original. Probably should be followed by a closing parenthesis.

[2] So in original. Probably should be ''subsection''.

**(f) Combining entitlements and reallocations**

(1) The entitlements received by any Village Corporation under subsection (a) of this section and the reallocations made to the Village Corporation under subsection (b) of this section may be combined, at the discretion of the Secretary, without—

(A) increasing or decreasing the combined entitlement; or

(B) increasing the limitation on selections of Wildlife Refuge System land, National Forest System land, or State-selected land under subsection (a) of this section.

(2) The combined entitlement under paragraph (1) may be fulfilled from selections under subsection (a) or (b) of this section without regard to the entitlement specified in the selection application.

(3) All selections under a combined entitlement under paragraph (1) shall be adjudicated and conveyed in compliance with this chapter.

(4) Except in a case in which a survey has been contracted for December 10, 2004, the combination of entitlements under paragraph (1) shall not require separate patents or surveys, to distinguish between conveyances made to a Village Corporation under subsections (a) and (b) of this section.

(Pub. L. 92–203, § 12, Dec. 18, 1971, 85 Stat. 701; Pub. L. 96–487, title XIV, §§ 1402, 1403, Dec. 2, 1980, 94 Stat. 2492; Pub. L. 105–333, § 3, Oct. 31, 1998, 112 Stat. 3130; Pub. L. 108–452, title II, § 202, Dec. 10, 2004, 118 Stat. 3582.)

REFERENCES IN TEXT

For Federal surplus property disposal laws, referred to in subsec. (d), see, generally, subtitle I of Title 40, Public Buildings, Property, and Works.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–452, § 202(1), substituted ''Regional Corporation shall, not later than October 1, 2005,'' for ''Regional Corporation shall'' in second sentence.

Subsec. (f). Pub. L. 108–452, § 202(2), added subsec. (f).

1998—Subsec. (c)(4)(C), (D). Pub. L. 105–333, § 3(a)(1), added subpars. (C) and (D). Former subpars. (C) and (D) redesignated (E) and (F), respectively.

Subsec. (c)(4)(E). Pub. L. 105–333, § 3(a), redesignated subpar. (C) as (E) and substituted ''(A), (B), or (C)'' for ''(A) or (B)''.

Subsec. (c)(4)(F). Pub. L. 105–333, § 3(a)(1), redesignated subpar. (D) as (F).

Subsec. (c)(5). Pub. L. 105–333, § 3(b), added par. (5).

1980—Subsec. (a)(2). Pub. L. 96–487, § 1402, inserted proviso specifying conditions under which Secretary in his discretion and upon request of concerned Village Corporation may waive the whole section requirement.

Subsec. (c)(4). Pub. L. 96–487, § 1403, added par. (4).

SEPARABILITY

Pub. L. 95–178, § 3(b), Nov. 15, 1977, 91 Stat. 1370, provided that: ''If any provision of this Act [enacting section 1628 of this title, amending sections 1613 and 1615 of this title, and amending provisions set out as a note under this section] or the applicability thereof is held invalid, the validity of the remainder of this Act, of section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended [set out below], of the document referred to in section 12(b) thereof, and the duties and obligations of the Secretary of the Interior, the State of Alaska, and Cook Inlet Region, Incorporated, with respect thereto, shall not be affected thereby.''

LAND AVAILABLE AFTER SELECTION PERIOD

Pub. L. 108–452, title II, § 201, Dec. 10, 2004, 118 Stat. 3582, provided that:

''(a) IN GENERAL.—To make certain Federal land available for conveyance to a Native Corporation that has sufficient remaining entitlement, the Secretary [of the Interior] may waive the filing deadlines under sections 12 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1615) if—

''(1) the Federal land is—

''(A) located in a township in which all or any part of a Native Village is located; or

''(B) surrounded by—

''(i) land that is owned by the Native Corporation; or

''(ii) selected land that will be conveyed to the Native Corporation;

''(2) the Federal land—

''(A) became available after the end of the original selection period;

''(B)(i) was not selected by the Native Corporation because the Federal land was subject to a competing claim or entry; and

''(ii) the competing claim or entry has lapsed; or

''(C) was previously an unavailable Federal enclave within a Native selection withdrawal area;

''(3)(A) the Secretary provides the Native Corporation with a specific time period in which to decline the Federal land; and

''(B) the Native Corporation does not submit to the Secretary written notice declining the land within the period established under subparagraph (A); and

''(4) the State [of Alaska] has voluntarily relinquished any valid State selection or top-filing for the Federal land.

''(b) CONGRESSIONAL ACTION.—Subsection (a) shall not apply to a parcel of Federal land if Congress has specifically made other provisions for disposition of the parcel of Federal land.''

SETTLEMENT OF REMAINING ENTITLEMENT

Pub. L. 108–452, title II, § 209, Dec. 10, 2004, 118 Stat. 3586, provided that:

''(a) IN GENERAL.—The Secretary [of the Interior] may enter into a binding written agreement with a Native Corporation relating to—

''(1) the land remaining to be conveyed to the Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) from land selected as of September 1, 2004, or land made available under section 201 [set out above], 206 [amending section 1613 of this title], or 208 [amending section 1621 of this title] of this Act;

''(2) the priority in which the land is to be conveyed;

''(3) the relinquishment of selections which are not to be conveyed;

''(4) the selection entitlement to which selections are to be charged, regardless of the entitlement under which originally selected;

''(5) the survey of the exterior boundaries of the land to be conveyed;

''(6) the additional survey to be performed under section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)); and

''(7) the resolution of conflicts with Native allotment [an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469)] applications.

''(b) REQUIREMENTS.—An agreement under subsection (a)—

''(1) shall be authorized by a resolution of the Native Corporation entering into the agreement; and

''(2) shall include a statement that the entitlement of the Native Corporation shall be considered complete on execution of the agreement.

''(c) CORRECTION OF CONVEYANCE DOCUMENTS.—In an agreement under subsection (a), the Secretary and the Native Corporation may agree to make technical corrections to the legal description in the conveyance doc-

uments for easements previously reserved so that the easements provide the access intended by the original reservation.

''(d) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that the concerns or issues identified by the State [of Alaska] and all Federal agencies potentially affected by the agreement are given consideration.

''(e) ERRORS.—Any Native Corporation entering into an agreement under subsection (a) shall receive any gain or bear any loss resulting from errors in prior surveys, protraction diagrams, or computation of the ownership of third parties on any land conveyed.

''(f) EFFECT.—

''(1) IN GENERAL.—An agreement under subsection (a) shall not—

''(A) affect the obligations of Native Corporations under prior agreements; or

''(B) result in a Native Corporation relinquishing valid selections of land in order to qualify for the withdrawal of other tracts of land.

''(2) EFFECT ON SUBSURFACE RIGHTS.—The terms of an agreement entered into under subsection (a) shall be binding on a Regional Corporation with respect to the location and quantity of subsurface rights of the Regional Corporation under section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)).

''(3) EFFECT ON ENTITLEMENT.—Nothing in this section increases the entitlement provided to any Native Corporation under—

''(A) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

''(B) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

''(g) BOUNDARIES OF A NATIVE VILLAGE.—An agreement entered into under subsection (a) may not define the boundaries of a Native Village.

''(h) AVAILABILITY OF AGREEMENTS.—An agreement entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.''

FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

Pub. L. 108–452, title IV, §§401–403, Dec. 10, 2004, 118 Stat. 3591, provided that:

''SEC. 401. DEADLINE FOR ESTABLISHMENT OF REGIONAL PLANS.

''(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [Dec. 10, 2004], the Secretary [of the Interior], in coordination and consultation with Native Corporations, other Federal land management agencies, and the State [of Alaska], shall update and revise the 12 preliminary Regional Conveyance and Survey Plans.

''(b) INCLUSIONS.—The updated and revised plans under subsection (a) shall identify any conflicts to be resolved and recommend any actions that should be taken to facilitate the finalization of land conveyances in a region by 2009.

''SEC. 402. DEADLINE FOR ESTABLISHMENT OF VILLAGE PLANS.

''Not later than 30 months after the date of enactment of this Act [Dec. 10, 2004], the Secretary, in coordination with affected Federal land management agencies, the State, and Village Corporations, shall complete a final closure plan with respect to the entitlements for each Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''SEC. 403. FINAL PRIORITIZATION OF ANCSA SELECTIONS.

''(a) IN GENERAL.—Any Native Corporation that has not received its full entitlement or entered into a voluntary, negotiated settlement of final entitlement shall submit the final, irrevocable priorities of the Native Corporation—

''(1) in the case of a Village, Group, or Urban Corporation entitlement, not later than 36 months after the date of enactment of this Act [Dec. 10, 2004]; and

''(2) in the case of a Regional Corporation entitlement, not later than 42 months after the date of enactment of this Act.

''(b) ACREAGE LIMITATIONS.—The priorities submitted under subsection (a) shall not exceed land that is the greater of—

''(1) not more than 125 percent of the remaining entitlement; or

''(2) not more than 640 acres in excess of the remaining entitlement.

''(c) CORRECTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the priorities submitted under subsection (a) may not be revoked, rescinded, or modified by the Native Corporation.

''(2) TECHNICAL CORRECTIONS.—Not later than 90 days after the date of receipt of a notification by the Secretary that there appears to be a technical error in the priorities, the Native Corporation may correct the technical error in accordance with any recommendations of, and in a manner prescribed by or acceptable to, the Secretary.

''(d) RELINQUISHMENT.—

''(1) IN GENERAL.—As of the date on which the Native Corporation submits its final priorities under subsection (a)—

''(A) any unprioritized, remaining selections of the Native Corporation—

''(i) are relinquished, but any part of the selections may be reinstated for the purpose of correcting a technical error; and

''(ii) have no further segregative effect; and

''(B) all withdrawals under sections 11 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610, 1615) under the relinquished selections are terminated.

''(2) RECORDS.—All relinquishments under paragraph (1) shall be included in Bureau of Land Management land records.

''(e) FAILURE TO SUBMIT PRIORITIES.—If a Native Corporation fails to submit priorities by the deadline specified in subsection (a)—

''(1) with respect to a Native Corporation that has priorities on file with the Secretary, the Secretary—

''(A) shall convey to the Native Corporation the remaining entitlement of the Native Corporation, as determined based on the most recent priorities of the Native Corporation on file with the Secretary and in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

''(B) may reject any selections not needed to fulfill the entitlement; or

''(2) with respect to a Native Corporation that does not have priorities on file with the Secretary, the Secretary shall satisfy the entitlement by conveying land selected by the Secretary, in consultation with the appropriate Native Corporation, the Federal land managing agency with administrative jurisdiction over the land to be conveyed, and the State, that, to the maximum extent practicable, is—

''(A) compact;

''(B) contiguous to land previously conveyed to the Native Corporation; and

''(C) consistent with the applicable preliminary Regional Conveyance and Survey Plan referred to in section 401.

''(f) PLAN OF CONVEYANCE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) identify any Native Corporation that does not have sufficient priorities on file;

''(B) develop priorities for the Native Corporation in accordance with subsection (e); and

''(C) provide to the Native Corporation a plan of conveyance based on the priorities developed under subparagraph (B).

''(2) FINALIZED SELECTIONS.—Not later than 180 days after the date on which the Secretary provides a plan of conveyance to the affected Village, Group, or Urban Corporation and the Regional Corporation, the Regional Corporation shall finalize any Regional se-

lections that are in conflict with land selected by the Village, Group, or Urban Corporation that has not been prioritized by the deadline under subsection (a)(1).

''(g) DISSOLVED OR LAPSED CORPORATIONS.—

''(1)(A) If a Native Corporation is lapsed or dissolved at the time final priorities are required to be filed under this section and does not have priorities on file with the Secretary, the Secretary shall establish a deadline for the filing of priorities that shall be one year from the provisions of notice of the deadline.

''(B) To fulfill the notice requirement under paragraph (1), the Secretary shall—

''(i) publish notice of the deadline to a lapsed or dissolved Native Corporation in a newspaper of general circulation nearest the locality where the affected land is located; and

''(ii) seek to notify in writing the last known shareholders of the lapsed or dissolved corporation.

''(C) If a Native Corporation does not file priorities with the Secretary before the deadline set pursuant to subparagraph (A), the Secretary shall notify Congress.

''(2) If a Native Corporation with final priorities on file with the Bureau of Land Management is lapsed or dissolved, the United States—

''(A) shall continue to administer the prioritized selected land under applicable law; but

''(B) may reject any selections not needed to fulfill the lapsed or dissolved Native Corporation's entitlement.''

AVAILABILITY OF PROPERTY ACCOUNT FOR PURPOSES INVOLVING PUBLIC SALE OF PROPERTY BY FEDERAL AGENCIES

Pub. L. 100–202, § 101(j) [§ 127], Dec. 22, 1987, 101 Stat. 1329–311, 1329–318, provided that: ''In addition to the purposes for which it is now available, the property account established by section 12(b) of the Act of January 2, 1976, as amended (43 U.S.C. 1611 note) [section 12(b) of Pub. L. 94–204 set out below] shall be available hereafter for purposes involving any public sale of property by any agency of the United States, including the Department of Defense, or any element thereof.''

AUTHORITY TO CONVEY LANDS UNDER APPLICATION FOR SELECTION TO COOK INLET REGION, INC., FOR RECONVEYANCE TO VILLAGE CORPORATIONS; TENDER OF CONVEYANCE OF DESCRIBED LAND TO COOK INLET REGION, INC., ACCEPTANCE BY REGION, AND EFFECT ON ENTITLEMENT

Pub. L. 94–456, §§ 4, 5, Oct. 4, 1976, 90 Stat. 1935, provided that:

''SEC. 4. (a) The Secretary is authorized to convey lands under application for selection by Village Corporations within Cook Inlet Region to the Cook Inlet Region, Incorporated, for reconveyance by the Region to such Village Corporations. Such lands shall be conveyed as partial satisfaction of the statutory entitlement of such Village Corporations from lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act [section 1610(a)(3) of this title] (hereinafter, The Settlement Act') [this chapter], and with the consent of the Region affected, as provided in section 12 of the Act of January 2, 1976 (89 Stat. 1145, 1150) [set out as a note below], from lands outside the boundaries of Cook Inlet Region. This authority shall not be employed to increase or decrease the statutory entitlement of any Village Corporation or Cook Inlet Region, Incorporated. For the purposes of counting acres received in computing statutory entitlement, the Secretary shall count the number of acres or acre selections surrendered by Village Corporations in any exchange for any other lands or selections.

''(b) The Secretary shall not be required to survey any land conveyed pursuant to subsection 4(a) until the Village Corporation entitlement for all eligible Village Corporations has been conveyed. With respect to the conveyances made by the Secretary in the manner authorized by subsection 4(a), the Secretary shall survey the exterior boundaries of each entire area conveyed to Cook Inlet Region, Incorporated, pursuant to subsection 4(a) and monument to boundary lines at angle points and intervals of approximately two miles on straight lines. The Secretary shall not be required to provide ground survey or monumentation along meanderable water boundaries. Each township corner located within the exterior boundary of land conveyed shall be located and monumented. Any areas within such tracts that are to be reconveyed pursuant to section 14(C)(1) and (2) of the Settlement Act [section 1613(c)(1) and (2) of this title] shall also be surveyed pursuant to 43 C.F.R. 2650.

''(c) Conveyances made under the authority of subsection (a) of this section shall be considered conveyances under the Settlement Act [this chapter] and subject to the provisions of that Act, except as provided by this Act [amending section 1615(a) and (d) of this title and amending provisions set out as a note below].

''SEC. 5. (a) The Secretary shall, within sixty days after the effective date of this Act [Oct. 4, 1976], tender conveyance of the land described in subsection (b), subject to valid existing rights, to Cook Inlet Region, Incorporated. If the conveyance is accepted by the Region, such lands shall be considered 1,687.2 acre-equivalents within the meaning of paragraph I(C)(2)(e)(iii) of the Terms and Conditions as clarified August 31, 1976, and the Secretary's obligations under paragraph I(C) of those Terms and Conditions will be reduced accordingly. If, however, said section 12 of the Act of January 2, 1976 [set out as a note below], does not take effect then the entitlement of Cook Inlet Region, Incorporated, under section 12(c) [section 1611(c) of this title] shall be reduced by 8,346 acres.

''(b) The land referred to in subsection (a) is described as a parcel of land located in section 7 of township 13 north, range 2 west of the Seward Meridian, Third Judicial District, State of Alaska; said parcel being all of Government lots 5 and 7 and that portion of the SE¼ NW¼ lying north of the north right-of-way line of the Glenn Highway, State of Alaska, Department of Highways Project No. F–042–1(2), and more particularly described as follows:

''Commencing at the north quarter corner of said section 7;

''thence south 00 degrees 12 minutes east, a distance of 1,320.0 feet, more or less, to the northeast corner of said southeast quarter northwest quarter;

''thence west along the north line of southeast quarter northwest quarter a distance of 94.0 feet, more or less, to the north right-of-way line of the Glenn Highway and the true point of beginning;

''thence south 53 degrees 16 minutes 15 seconds west along said north right-of-way line, a distance of 1,415.0 feet, more or less, to a point of curve being at right angles to centerline Station 216 plus 51.35;

''thence continuing along said north right-of-way line along a curve to the right with a central angle of 12 degrees 51 minutes 34 seconds, having a radius of 5,595.58 feet for an arc distance of 105.0 feet, more or less, to a point of intersection of said north right-of-way line with the west line of said southeast quarter northwest quarter;

''thence north 00 degrees 12 minutes west along said west line, being common with the east line of Government lot 5, a distance of 910.0 feet, more or less, to the northwest corner of said southeast quarter northwest quarter;

''thence east along the north line of said southeast quarter northwest quarter, a distance of 1,225.0 feet, more or less, to the point of beginning; containing 56.24 acres, more or less.''

SETTLEMENT OF CLAIMS AND CONSOLIDATION OF OWNERSHIP AMONG THE UNITED STATES, THE COOK INLET REGION, INC. AND THE STATE OF ALASKA

Pub. L. 94–204, § 12, Jan. 2, 1976, 89 Stat. 1150, as amended by Pub. L. 94–456, § 3, Oct. 4, 1976, 90 Stat. 1935;

Pub. L. 95–178, § 3(a), Nov. 15, 1977, 91 Stat. 1369; Pub. L. 96–55, § 2, Aug. 14, 1979, 93 Stat. 386; Pub. L. 96–311, July 17, 1980, 94 Stat. 947; Pub. L. 96–487, title XIV, § 1435, Dec. 2, 1980, 94 Stat. 2545; Pub. L. 97–468, title VI, § 606(d), Jan. 14, 1983, 96 Stat. 2566; Pub. L. 99–500, § 101(h) [title III, § 319], Oct. 18, 1986, 100 Stat. 1783–242, 1783–286, and Pub. L. 99–591, § 101(h) [title III, § 319], Oct. 30, 1986, 100 Stat. 3341–242, 3341–287; Pub. L. 101–511, title VIII, § 8133(a), Nov. 5, 1990, 104 Stat. 1909; Pub. L. 102–154, title III, § 320, Nov. 13, 1991, 105 Stat. 1036; Pub. L. 103–204, § 32(b), Dec. 17, 1993, 107 Stat. 2413, provided that:

''(a) The purpose of this section is to provide for the settlement of certain claims, and in so doing to consolidate ownership among the United States, the Cook Inlet Region Incorporated (hereinafter in this section referred to as the 'Region'), and the State of Alaska, within the Cook Inlet area of Alaska in order to facilitate land management and to create land ownership patterns which encourage settlement and development in appropriate areas. The provisions of this section shall take effect at such time as all of the following have taken place:

''(1) the State of Alaska has conveyed or irrevocably obligated itself to convey lands to the United States for exchange, hereby authorized, with the Region in accordance with the document referred to in subsection (b);

''(2) the Region and all plaintiffs/appellants have withdrawn from Cook Inlet against Kleppe, numbered 75–2232, ninth circuit, and such proceedings have been dismissed with prejudice; and

''(3) all Native village selections under section 12 of the Settlement Act [section 1611 of this title] of the lands within Lake Clark, Lake Kontrashibuna, and Mulchatna River deficiency withdrawals have been irrevocably withdrawn and waived.

The conveyances described in paragraph (1) of this subsection shall not be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339) [set out as note preceding section 21 of Title 48, Territories and Insular Possessions].

''(b) The Secretary shall make the following conveyances to the Region, in accordance with the specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area', which was submitted to the House Committee on Interior and Insular Affairs on December 10, 1975, and clarified on August 31, 1976, the terms of which, as clarified, are hereby incorporated herein and ratified as to the duties and obligations of the United States and the Region, as a matter of Federal law.

''(1) title to approximately 10,240 acres of land within the Kenai National Moose Range; except that there shall be no conveyance of the bed of Lake Tustamena, or the mineral estate in the waterfront zone described in the document referred to in this subsection;

''(2) title to oil and gas and coal in not to exceed 9.5 townships within the Kenai National Moose Range;

''(3) title to Federal interests in township 10 south, range 9 west, F.M., and township 20 north, range 9 east, S.M.;

''(4) title to township 1 south, range 21 west, S.M.: sections 3 to 10, 15 to 22, 29, and 30; and rights to metalliferous minerals in the following sections in township 1 north, range 21 west, S.M.: sections 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34, 35, 36;

''(5) title to twenty-nine and sixty-six hundredths townships of land outside the boundaries of Cook Inlet Region: unless pursuant to the document referred to in this subsection a greater or lesser entitlement shall exist, in which case the Secretary shall convey such entitlement;

''(6) title to lands selected by the Region from a pool which shall be established by the Secretary and the Administrator of General Services: *Provided*, That conveyances pursuant to this paragraph shall not be subject to the provisions of section 22(*l*) of the Settlement Act [section 1621(*l*) of this title]: *Provided further*, That conveyances pursuant to this paragraph shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in paragraph (5) of this subsection and on the basis of values determined by agreement among the parties, notwithstanding any other provision of law. Effective upon their conveyance, the lands referred to in paragraph (1) of this subsection are excluded from the Kenai National Moose Range, but they shall automatically become part of the range and subject to the laws and regulations applicable thereto upon title thereafter vesting in the United States. The Secretary is authorized to acquire lands formerly within the range with the concurrence of the Region so long as the Region owns such lands. Section 22(e) of the Settlement Act [section 1621(e) of this title], concerning refuge replacement, shall apply with respect to lands conveyed pursuant to paragraphs (1) and (2) of this subsection, except that the Secretary may designate for replacement land twice the amount of any land conveyed without restriction to a native corporation.

''(7)(i) Until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) of this Act [subsec. (b)(5), (6) of this note] are otherwise fulfilled: (a) Cook Inlet Region, Incorporated, may, by using the account established in subsection 12(b)(7)(iv) [subsec. (b)(7)(iv) of this note], bid, as any other bidder for property as defined in subsection 12(b)(7)(vii) [subsec. (b)(7)(vii) of this note],, [sic] wherever located, in accordance with the applicable laws and regulations of the Federal agency or instrumentality offering such property for sale. No preference right of any type will be offered to Cook Inlet Region Incorporated, for bidding on property under this section 12(b)(7) [subsec. (b)(7) of this note]. There shall be no advertising other than that ordinarily required by such sale. [sic] (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to 40 U.S.C. 484(e)(3) [now 40 U.S.C. 545(b)] to be offered Cook Inlet Region, Incorporated for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act [this chapter]: *Provided*, That nothing in these subsections 12(b)(7)(i)(b) or (ii) [subsec. (b)(7)(i)(b) or (ii) of this note] shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. Prior to any disposition under subsection 12(b)(7)(i)(b) [subsec. (b)(7)(i)(b) of this note], the Administrator shall notify the governing body of the locality where such property is located and any appropriate state agency, and no such disposition shall be made if such governing body or state agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

''(ii) Subject to the exceptions stated in section 12(b)(9) [subsec. (b)(9) of this note], and notwithstanding the foregoing subsection 12(b)(7)(i) [subsec. (b)(7)(i) of this note] and any provision of any other law or any implementing regulation inconsistent with this subsection, until the obligations of the Secretary and the Administrator of General Services under section 12(b)(5) and (6) [subsec. (b)(5) and (6) of this note] are otherwise fulfilled:

''(A) concurrently with the commencement of screening of any excess real property, wherever located, for utilization by Federal agencies, the Administrator of General Services shall notify the Region that such property may be available for conveyance to the Region upon negotiated sale. Within fifteen days of the date of receipt of such notice, the Region may advise the Administrator that there is a tentative need for the property to fulfill the obligations established under section 12(b)(5) and (6) [subsec. (b)(5) and (6) of this note]. If the Ad-

ministrator determines the property should be disposed of by transfer to the Region, the Administrator or other appropriate Federal official shall promptly transfer such property;

''(B) no disposition or conveyance of property under this subsection to the Region shall be made until the Administrator, after notice to affected State and local governments, has provided to them such opportunity to obtain the property as is recognized in title 40, United States Code and the regulations thereunder for the disposition or conveyance of surplus property; and

''(C) as used in this subsection, 'real property' means any land or interests in land owned or held by the United States or any Federal agency, any improvements on such land or rights to their use or exploitation, and any personal property related to the land.

''(iii) If the Region accepts any conveyance under section 12(b)(7)(i) or (ii) [subsec. (b)(7)(i) or (ii) of this note], it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document referred to in this section, except that, after the obligation of the Secretary and the Administrator under subparagraph I(C)(2)(g) of that document has been fulfilled, the acre-equivalents under subparagraph I(C)(2)(e)(iii)(A) shall be one-half the valued increment therein stated. The entitlement of the Region under section 12(b) of this Act [subsec. (b) of this note] shall be reduced by the number of acres or acre-equivalents attributed to the Region under this subsection. The Secretary and the Administrator are directed to execute an agreement with the Region which shall conform substantially to the 'Memorandum of Understanding Regarding the Implementation of Section 12(b)(7)', dated September 10, 1982, and submitted to the Senate Committee on Commerce, Science, and Transportation. The Secretary, the Administrator and the Region may thereafter otherwise agree to procedures to implement responsibilities under this section 12(b)(7) [subsec. (b)(7) of this note], including establishment of accounting procedures and the delegation or reassignment of duties under this statute.

''(iv) The Secretary of the Treasury shall establish a Cook Inlet Region, Incorporated property account, which shall be available for the purpose of bidding on property, as defined in subsection 12(b)(7)(vii) [subsec. (b)(7)(vii) of this note], or paying for the conveyance of property pursuant to subsections 12(b)(7)(i) or (ii) [subsec. (b)(7)(i), (ii) of this note]. The balance of the account shall be the sum of (1) the acre-equivalent exchange value established by paragraph I(C)(2)(e)(iii)(A) of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Incorporated, [on] December 2, 1980, to acre or acre-equivalents under paragraph I(C)(2)(g) of the document referred to in this subsection 12(b) [subsec. (b) of this note] and (2) one-half the acre or acre-equivalent exchange value under subparagraph I(C)(2)(e)(iii)(A) of seven townships fewer than the unfulfilled entitlement of the Region on the same date to acres or acre-equivalents under paragraph I(C)(1) of the document referred to in this section. The balance of the property account shall be adjusted in accordance with subsection 12(b)(7)(iii) [subsec. (b)(7)(iii) of this note] to reflect transfers or successful bids under section 12(b)(5) and (6) of this section [subsec. (b)(5) and (6) of this note] or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated.

''(v) The amount charged against the Treasury account established under subsection 12(b)(7)(iv) [subsec. (b)(7)(iv) of this note] for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 et seq. [see chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, Public Contracts], or any legislative or executive delegation under that Act, shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to 40 U.S.C. 485(b) [now 40 U.S.C. 572(a)], as amended.

''(vi) The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Incorporated, under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e) of the document referred to in subsection (b) of this section [subsec. (b) of this note] shall be prima facie evidence of such fair value.

''(vii) Notwithstanding the definition of 'property' found in the Federal Property and Administrative Services Act of 1949, as amended [see 40 U.S.C. 102(9)], as used in this section 12(b)(7) [subsec. (b)(7) of this note], 'property' means any property—real, personal (including intangible assets sold or offered by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, such as financial instruments, notes, loans, and bonds), or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any Government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

''(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consummating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed.

''(8) Subject to the exceptions stated in section 12(b)(9) [subsec. (b)(9) of this note], and notwithstanding any provisions of law or implementing regulation inconsistent with this section:

''(i) The deadlines in subparagraphs I(C)(2)(a) and (g) of the document referred to in this section shall be extended until the Secretary's obligations under section 12(b)(5) and (6) [subsec. (b)(5) and (6) of this note] are fulfilled: *Provided*, That:

''(A) the obligation of the Secretary under subparagraph I(C)(2)(a) of such document shall terminate on such date, after July 15, 1984, that the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document: *Provided*, That the obligation of the Secretary under subparagraph I(C)(2)(g) of such document shall be fulfilled at such date, after July 15, 1984, that the sum of the acres or acre-equivalents identified for and placed in the pool and the acres or acre-equivalents used by the Region in purchasing property under section 12(b)(7) [subsec. (b)(7) of this note] equals or exceeds 138,240 acres or acre-equivalents;

''(B) the authority of the Secretary under subparagraphs I(C)(2)(b) and I(C)(2)(g)(ii) of such document to contribute to the pool created under subparagraph I(C)(2)(a) of such document shall terminate (a) on July 15, 1984, if, by that date, the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g), or (b) if not, on such date after July 15, 1984 as such obligation is fulfilled, or (c) if such obligation remains unfulfilled, on July 15, 1987;

''(C) the concurrence by the State as described in subparagraphs I(C)(2)(a)(vi) and I(C)(2)(c) of the document referred to in this section shall be deemed not required after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document, but in no event after July 15, 1987. In lieu of such concurrence, after 1984 as to military property, and after the Secretary has fulfilled his obligation under subparagraph I(C)(2)(g) of that document or July 15, 1987, whichever is earlier, as to any other property, except property of the Alaska Railroad which is governed by subsection 12(b)(6)(i)(D) of this Act [probably means subpar. (i)(D) of this paragraph], the Secretary shall not place any lands in the selection pool referred to in subparagraphs I(C)(2)(a) and (g) of the document referred to in this section without the prior written concurrence of the State. Such concurrence shall be deemed obtained unless the State advises the Secretary within ninety days of receipt of a formal notice from the Secretary that he is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or municipality; and

''(D) notwithstanding section 606(a)(2) of the Alaska Railroad Transfer Act of 1982 [section 1205(a)(2) of Title 45, Railroads], the Secretary may include property of the Alaska Railroad in the pool of lands to be made available for selection to the extent that he is authorized to do so under a provision of section 12(b) of this Act [subsec. (b) of this note] if the State consents to its inclusion, which consent is not subject to any limitation under subsection 12(b)(8)(i)(C) herein: *Provided*, That, while the Alaska Railroad is the property of the United States, the Secretary shall obtain the consent of the Secretary of Transportation prior to including such property: *And provided further*, That, if the transfer of the Alaska Railroad to the State does not occur pursuant to the terms of the Alaska Railroad Transfer Act of 1982 [see Short Title note set out under section 1201 of Title 45] or any amendments thereto, the State's consent shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that he is considering placing such property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question, requires the property for a public purpose of the State or the municipality.

''(ii) In addition to the review required to identify public lands under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), the Secretary shall identify for inclusion in the pool all public lands (as such term is used under section 3(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(e)), as described in subparagraph I(C)(2)(a)(v) of the document referred to in this section, and shall, in so doing, review all Federal installations within the boundaries of the Cook Inlet Region whether within or without the areas withdrawn pursuant to section 11 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610) or by the Secretary acting under authority contained in that section: *Provided*, That no such additional review under such subparagraph shall be required of military installations or of such other installations as may be mutually excluded from review by the Region and the Secretary: *And provided further*, That the Secretary shall not review any property of the Alaska Railroad unless such property becomes available for selection pursuant to subsection 12(b)(8)(i)(D) [subsec. (b)(8)(i)(D) of this note].

''(iii) The concurrence required of the State as to the inclusion of any property in the pool under subparagraph I(C)(2)(b) of the document referred to in this section shall be deemed obtained unless the State advises the Secretary in writing, within ninety days of receipt of a formal notice from the Secretary that the Secretary is considering placing property in the selection pool, that the State, or a municipality of the State which includes all or part of the property in question requires the property for a public purpose of the State or the municipality.

''(iv) The deadlines in subparagraph I(C)(1)(b) of the document referred to in this section shall be extended for an additional twenty-four months beyond the dates established in the Act of July 17, 1980 (Public Law 96–311; 94 Stat. 947) [amending this note].

''(v) On or before January 15, 1985, the Secretary shall report to the Congress with respect to:

''(A) such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, except for lands held by the Alaska Railroad or the State-owned railroad, within the boundaries of the Cook Inlet Region or elsewhere can be made available to the Region, to the extent of its entitlement;

''(B) the feasibility and appropriate nature of reimbursement of the Region for its unfulfilled entitlement as valued in subsection 12(b)(7)(iv) of this Act [subsec. (b)(7)(iv) of this note];

''(C) the extent to which implementation of the mechanisms established in section 12(b)(7) [subsec. (b)(7) of this note] promise to meet such unfulfilled entitlement;

''(D) such other remedial legislation or administrative action as may be needed; and

''(E) the need to terminate any mechanism established by law through which the entitlement of the Region may be completed.

''(9) No disposition or conveyance of property located within the State to the Region under section 12(b)(6), 12(b)(7) and 12(b)(8), as amended [subsec. (b)(6) to (8) of this note], shall be made if the property is subject to an express waiver of rights under the provisions of subparagraph I(C)(2)(f) of the document referred to in this section, or if such disposition or conveyance violates valid rights, including valid selections or valid authorized agreements, of Native Corporations (as such term is used in section 102(6) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(6)) or the State existing at the time of such disposition or conveyance under section 6 of Public Law 85–508, as amended [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions] (excepting section 906(e) of the Alaska National Interest Lands Conservation Act [section 1635(e) of this title]), sections 12(a), 12(b), 16(b) or 22(f) of the Alaska Native Claims Settlement Act [subsec. (a) or (b) of this section or section 1615(b) or 1621(f) of this title, respectively], section 12(h) of the Act of January 2, 1976 (Public Law 94–204; 89 Stat. 1154) [subsec. (h) of this note], or sections 1416, 1418 through 1425 (inclusive), 1427 through 1434 (inclusive), or 1436 of the Alaska National Interest Lands Conservation Act [not classified to the Code]: *Provided, however*, That nothing within this subsection 12(b)(9) [subsec. (b)(9) of this note] shall diminish such rights and priorities as the Region has under section 12(b) of the Act of January 2, 1976 (Public Law 94–204; 89 Stat. 1151), as amended by section 4 of the Act of October 4, 1976 (Public Law 94–456; 90 Stat. 1935), section 3 of the Act of November 15, 1977 (Public Law 95–178; 91 Stat. 1369), section 2 of the Act of August 14, 1979 (Public Law 96–55; 93 Stat. 386), the Act of July 17, 1980 (Public Law 96–311; 94 Stat. 947), and section 1435 of the Alaska National Interest Lands Conservation Act [subsec. (b) of this note].

''(10) For the purpose of its incorporation into this section, paragraph I(C)(1) of the document referred to

in this section is amended as follows: (1) by striking 'withdrawn' and inserting in lieu thereof 'withdrawn or formerly withdrawn'; (2) by striking '17(d)(1)' and inserting in lieu thereof '17(d)(1) and (2)'; and (3) by striking the last sentence of subparagraph I(C)(1)(a) and inserting in lieu thereof the following: 'Cook Inlet Region, Incorporated shall not nominate any lands within the boundaries of any conservation system unit, national conservation area, national recreation area, national forest, defense withdrawal, or any lands that were made available to the State for selection pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972.'.

''(11) Notwithstanding the provisions of section 906 of the Alaska National Interest Lands Conservation Act [section 1635 of this title] and section 6(i) of the Alaska Statehood Act (72 Stat. 339) [set out in a note preceding section 21 of Title 48, Territories and Insular Possessions];

''(i) The State is hereby authorized to convey to the United States for reconveyance to the Region, and the Secretary is directed to accept and so reconvey, lands tentatively approved for patent or patented to the State, if the State and the Region enter into an agreement that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section: *Provided*, That the acreage of lands conveyed to the United States under this provision shall be added to the State's unfulfilled entitlement pursuant to section 6 of the Alaska Statehood Act, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

''(ii) The Secretary is directed to convey to the Region lands selected by the State prior to July 18, 1973 or pursuant to sections 2 and 5 of the State-Federal Agreement of September 1, 1972, if the State relinquishes such selections and enters into an agreement with the Region that such lands shall be reconveyed to the Region to fulfill all or part of its entitlement under paragraph I(C)(1) of the document referred to in this section, and the number of townships to be nominated, pooled, struck, selected and conveyed pursuant to paragraph I(C)(1) of the document referred to in this section shall be reduced accordingly.

''(iii) The Secretary, in the Secretary's discretion, is authorized to enter into an agreement with the State and the Region to implement the authority contained in this section 12(b)(11) [subsec. (b)(11) of this note], which agreement may provide for conveyances directly from the State to the Region. Conveyances directly conveyed shall be deemed conveyances from the Secretary pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

''(c) The lands and interests conveyed to the Region under the foregoing subsections of this section and the lands provided by the State exchange under subsection (a)(1) of this section, shall be considered and treated as conveyances under the Settlement Act [this chapter] unless otherwise provided, and shall constitute the Region's full entitlement under sections 12(c) and 14(h)(8) of the Settlement Act [sections 1611(c) and 1613(h)(8) of this title]. Of such lands, 3.58 townships of oil and gas and coal in the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of the Region under section 14(h)(8) [section 1613(h)(8) of this title]. The lands which would comprise the difference in acreage between the lands actually conveyed under and referred to in the foregoing subsections of this section, and any final determination of what the Region's acreage rights under sections 12(c) and 14(h)(8) of the Settlement Act [sections 1611(c) and 1613(h)(8) of this title] would have been, if the conveyances set forth in this section to the Region had not been executed, shall be retained by the United States and shall not be available for conveyance to any Regional Corporation or Village Corporation, notwithstanding any provisions of the Settlement Act [this chapter] to the contrary.

''(d)(1) The Secretary shall convey to the State of Alaska all right, title, and interest of the United States in and to all of the following lands:

''(i) At least 22.8 townships and no more than 27 townships of land from those presently withdrawn under section 17(d)(2) of the Settlement Act [section 1616(d)(2) of this title] in the Lake Iliamna area and within the Nushagak River or Koksetana River drainages near lands heretofore selected by the State, the amount and identities of which shall be determined pursuant to the document referred to in subsection (b); and

''(ii) 26 townships of lands in the Talkeetna Mountains, Kamishak Bay, and Tutna Lake areas, the identities of which are set forth in the document referred to in subsection (b).

All lands granted to the State of Alaska pursuant to this subsection shall be regarded for all purposes as if conveyed to the State under and pursuant to section 6 of the Alaska Statehood Act [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions]: *Provided, however*, That this grant of lands shall not constitute a charge against the total acreage to which the State is entitled under section 6(b) of the Alaska Statehood Act.

''(2) The Secretary is authorized and directed to convey to the State of Alaska, without consideration, all right, title, and interest of the United States in and to all that tract generally known as the Campbell tract and more particularly identified in the document referred to in subsection (b) except for one compact union of land, which he determines, after consultation with the State of Alaska, is actually needed by the Bureau of Land Management for its present operations: *Provided*, That in no event shall the unit of land so excepted exceed 1,000 acres in size. The land authorized to be conveyed pursuant to this paragraph shall be used for public parks and recreational purposes and other compatible public purposes. An area encompassing approximately sixty-two acres and depicted on the map entitled 'Native Heritage Park Proposal' and on file with the Secretary shall be managed in accordance with the generalized land use plan outlined in the Greater Anchorage Area Borough's Far North Bicentennial Park Master Development Plan of September 1974. Except as provided otherwise in this paragraph, in making the conveyance authorized and required by this paragraph, the Secretary shall utilize the procedures of the Recreation and Public Purposes Act (44 Stat. 741), as amended [section 869 et seq. of this title], and regulations developed pursuant to that Act, and the conveyance of such lands shall also contain a provision that, if the lands cease to be used for the purposes for which they were conveyed; the lands and title thereto shall revert to the United States: *Provided, however*, That the acreage limitation provided by section 1(b) of that Act, as amended by the Act of June 4, 1954 (68 Stat. 173) [section 869(b) of this title], shall not apply to this conveyance, nor shall the lands conveyed pursuant to this paragraph be counted against that acreage limitation with respect to the State of Alaska or any subdivision thereof: *Provided further*, That to the extent necessary, any and all conveyance documents executed concerning the conveyance of the lands referred to in this proviso shall be deemed amended accordingly to conform to this proviso.

''(3) The Secretary is authorized and directed to make available for selection by the State, in its discretion, under section 6 of the Alaska Statehood Act [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions], 12.4 townships of land to be selected from lands within the Talkeetna Mountains and Koksetna River area as described in the document referred to in subsection (b).

''(e) The Secretary may, notwithstanding any other provision of law to the contrary, convey title to lands and interests in lands selected by Native corporations

within the exterior boundaries of Power Site Classification 443, February 13, 1958, to such corporations, subject to the reservations required by section 24 of the Federal Power Act [section 818 of Title 16, Conservation]. This conveyance shall be considered and treated as a conveyance under the Settlement Act [this chapter].

''(f) All conveyances of lands made or to be made by the State of Alaska in satisfaction of the terms and conditions of the document referred to in subsection (b) of this section shall pass all of the State's right, title, and interest in such lands, including the minerals therein, as if those conveyances were made pursuant to section 22(f) of the Settlement Act [section 1621(f) of this title], except that dedicated or platted section line easements and highway and other rights-of-way may be reserved to the State.

''(g) The Secretary, through the National Park Service, shall provide financial assistance, not to exceed $25,000, hereby authorized to be appropriated, and technical assistance to the Region for the purpose of developing and implementing a land use plan for the west side of Cook Inlet, including an analysis of alternative uses of such lands.

''(h) Village Corporations within the Cook Inlet Region shall have until December 18, 1976, to file selections under section 12(b) of the Settlement Act [section 1611(b) of this title], notwithstanding any provision of that Act to the contrary.

''(i) The Secretary shall report to the Congress by April 15, 1976, on the implementation of this section. If the State fails to agree to engage in a transfer with the Federal Government, pursuant to subsection (a)(1), the Secretary shall prior to December 18, 1976, make no conveyance of the lands that were to be conveyed to the Region in this section, nor shall he convey prior to such date the Point Campbell, Point Woronzof, and Campbell tracts, so that the Congress is not precluded from fashioning an appropriate remedy. In the event that the State fails to agree as aforesaid, all rights of the Region that may have been extinguished by this section shall be restored.''

CONVEYANCE TO KONIAG, INC., A REGIONAL CORPORATION, OF THE SUBSURFACE ESTATE OF LANDS TO BE SELECTED

Pub. L. 94–204, § 15, Jan. 2, 1976, 89 Stat. 1154, as amended by Pub. L. 96–487, title IX, § 911, Dec. 2, 1980, 94 Stat. 2447, provided that:

''(a) The Secretary shall convey under section 12(a)(1) and 14(f) of the Settlement Act [sections 1611(a)(1) and 1613(f) of this title] to Koniag, Incorporated, a Regional Corporation established pursuant to section 7 of said Act [section 1606 of this title], such of the subsurface estate, other than title to or the right to remove gravel and common varieties of minerals and materials, as is selected by said corporation from lands withdrawn by Public Land Order 5397 for identification for selection by it located in the following described area:

''Township 36 south, range 52 west, all;

''Township 37 south, range 51 west, all;

''Township 37 south, range 52 west, all;

''Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

''Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

''Township 38 south, range 52 west, sections 1 through 35;

''Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

''Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

''Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

''Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

''Township 40 south, range 51 west, sections 2 and 6;

''Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

''Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

''Township 40 south, range 54 west, sections 1 through 34;

''Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

''Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

''Township 41 south, range 54 west, section 6, S. M., Alaska;

''Notwithstanding the withdrawal of such lands by Public Land Order 5179, as amended, pursuant to section 17(d)(2) of the Settlement Act [section 1616(d)(2) of this title]: *Provided*, That notwithstanding the future designation by Congress as part of the National Park System or other national land system referred to in section 17(d)(2)(A) of the Settlement Act [section 1616(d)(2)(A) of this title] of the surface estate overlying any subsurface estate conveyed as provided in this section, and with or without such designation, Koniag, Incorporated, shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and the removal of oil and gas from said subsurface estate, subject to such regulations by the Secretary as are necessary to protect the ecology from permanent harm.

''The United States shall make available to Koniag, its successors and assigns, such sand and gravel as is reasonably necessary for the construction of facilities and rights-of-way appurtenant to the exercise of the rights conveyed under this section, pursuant to the provisions of section 601 et seq., title 30, United States Code, and the regulations implementing that statute which are then in effect.

''(b) The subsurface estate in all lands other than those described in subsection (a) within the Koniag Region and withdrawn under section 17(d)(2)(E) of the Settlement Act [section 1616(d)(2)(E) of this title], shall not be available for selection by Koniag Region, Incorporated.''

SELECTION OF LANDS BY VILLAGE CORPORATION OF TATITLEK

Pub. L. 94–204, § 16, Jan. 2, 1976, 89 Stat. 1155, provided that: ''Within ninety days after the date of enactment of this Act [Jan. 2, 1976], the corporation created by the enrolled residents of the Village of Tatitlek may file selections upon any of the following described lands: Copper River Meridian

''Township 9 south, range 3 east, sections 23, 26, 31–35.

''Township 10 south, range 3 east, sections 2–27, 34–36.

''Township 11 south, range 4 east, sections 5, 6, 8, 9, 16, 17, 20–22, 27–29, 33–35.

''Township 9 south, range 3 east, sections 3–6, 9–11.

''Township 9 south, range 3 east, sections 14–16, 21, 22, 27, 28.

''The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12(a) or 12(b) of the Settlement Act [section 1611(a) or 1611(b) of this title], and were withdrawn pursuant to section 11 of that Act [section 1610 of this title].

''The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations. This section shall not be construed to increase the entitlement of the corporation of the enrolled residents of Tatitlek or to increase the amount of land that may be selected from the National Forest System. The subsurface of any land selected pursuant to this section shall be conveyed to the Regional Corporation for the Chugach Region pursuant to section 14(f) of the Settlement Act [section 1613(f) of this title].''

### § 1612. Surveys

**(a) Areas for conveyance to Village Corporations; monumentation of exterior boundaries; meanderable water boundaries exempt from requirement; land occupied as primary place of residence or business, or for other purposes and other patentable lands as subject to survey**

The Secretary shall survey the areas selected or designated for conveyance to Village Corporations pursuant to the provisions of this chapter. He shall monument only exterior boundaries of the selected or designated areas at angle points and at intervals of approximately two miles on straight lines. No ground survey or monumentation will be required along meanderable water boundaries. He shall survey within the areas selected or designated land occupied as a primary place of residence, as a primary place of business, and for other purposes, and any other land to be patented under this chapter.

**(b) Withdrawals, selections, and conveyances pursuant to chapter: current plats of surveys or protraction diagrams; conformity to Land Survey System**

All withdrawals, selections, and conveyances pursuant to this chapter shall be as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the Bureau of the State where protraction diagrams of the Bureau of Land Management are not available, and shall conform as nearly as practicable to the United States Land Survey System.

(Pub. L. 92–203, § 13, Dec. 18, 1971, 85 Stat. 702.)

### § 1613. Conveyance of lands

**(a) Native villages listed in section 1610 and qualified for land benefits; patents for surface estates; issuance; acreage**

Immediately after selection by a Village Corporation for a Native village listed in section 1610 of this title which the Secretary finds is qualified for land benefits under this chapter, the Secretary shall issue to the Village Corporation a patent to the surface estate in the number of acres shown in the following table:

| If the village had on the 1970 census enumeration date a Native population between— | It shall be entitled to a patent to an area of public lands equal to— |
|---|---|
| 25 and 99 | 69,120 acres. |
| 100 and 199 | 92,160 acres. |
| 200 and 399 | 115,200 acres. |
| 400 and 599 | 138,240 acres. |
| 600 or more | 161,280 acres. |

The lands patented shall be those selected by the Village Corporation pursuant to section 1611(a) of this title. In addition, the Secretary shall issue to the Village Corporation a patent to the surface estate in the lands selected pursuant to section 1611(b) of this title.

**(b) Native villages listed in section 1615 and qualified for land benefits; patents for surface estates; issuance; acreage**

Immediately after selection by any Village Corporation for a Native village listed in section 1615 of this title which the Secretary finds is qualified for land benefits under this chapter, the Secretary shall issue to the Village Corporation a patent to the surface estate to 23,040 acres. The lands patented shall be the lands within the township or townships that enclose the Native village, and any additional lands selected by the Village Corporation from the surrounding townships withdrawn for the Native village by section 1615(a) of this title.

**(c) Patent requirements; order of conveyance; vesting date; advisory and appellate functions of Regional Corporations on sales, leases, or other transactions prior to final commitment**

Each patent issued pursuant to subsections (a) and (b) of this section shall be subject to the requirements of this subsection. Upon receipt of a patent or patents:

(1) the Village Corporation shall first convey to any Native or non-Native occupant, without consideration, title to the surface estate in the tract occupied as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation) as a primary place of residence, or as a primary place of business, or as a subsistence campsite, or as headquarters for reindeer husbandry;

(2) the Village Corporation shall then convey to the occupant, either without consideration or upon payment of an amount not in excess of fair market value, determined as of the date of initial occupancy and without regard to any improvements thereon, title to the surface estate in any tract occupied as of December 18, 1971 by a nonprofit organization;

(3) the Village Corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: *Provided*, That the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided*, *however*, That the word ''sale'', as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;

(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the

surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971; and

(5) for a period of ten years after December 18, 1971, the Regional Corporation shall be afforded the opportunity to review and render advice to the Village Corporations on all land sales, leases or other transactions prior to any final commitment.

There is authorized to be appropriated such sums as may be necessary for the purpose of providing technical assistance to Village Corporations established pursuant to this chapter in order that they may fulfill the reconveyance requirements of this subsection. The Secretary may make funds available as grants to ANCSA or nonprofit corporations that maintain in-house land planning and management capabilities.

**(d) Rule of approximation with respect to acreage limitations**

(1) The Secretary may apply the rule of approximation with respect to the acreage limitations contained in this section.

(2) For purposes of applying the rule of approximation under this section, the largest legal subdivision that may be conveyed in excess of the applicable acreage limitation specified in subsection (a) of this section shall be—

(A) in the case of land managed by the Bureau of Land Management that is not within a conservation system unit, the next whole section;

(B) in the case of land managed by an agency other than the Bureau of Land Management that is not within a conservation system unit, the next quarter-section and only with concurrence of the agency; or

(C) in the case of land within a conservation system unit, a quarter of a quarter section, and if the land is managed by an agency other than the Bureau of Land Management, only with the concurrence of that agency.

(3)(A) If the Secretary determines pursuant to paragraph (2) that an entitlement of a Village Corporation (other than a Village Corporation listed in section 1615(a) of this title) or a Regional Corporation may be fulfilled by conveying a specific tract of surveyed or unsurveyed land, the Secretary and the affected Village or Regional Corporation may enter into an agreement providing that all land entitlements under this chapter shall be deemed satisfied by conveyance of the specifically identified and agreed upon tract of land.

(B) An agreement entered into under subparagraph (A) shall be—

(i) in writing;

(ii) executed by the Secretary and the Village or Regional Corporation; and

(iii) authorized by a corporate resolution adopted by the affected Village or Regional Corporation.

(C) After execution of an agreement under subparagraph (A) and conveyance of the agreed upon tract to the affected Village or Regional Corporation—

(i) the Secretary shall not make any further adjustments to calculations relating to acreage entitlements of the Village or Regional Corporation; and

(ii) the Village or Regional Corporation shall not be entitled to any further conveyances under this chapter.

(D) A Village or Regional Corporation shall not be eligible to receive land under subparagraph (A) if the Village or Regional Corporation has received the full land entitlement of the Village or Regional Corporation through—

(i) an actual conveyance of land; or

(ii) a previous agreement.

(E) If the calculations of the Secretary indicate that the final survey boundaries for any Village or Regional Corporation entitlement for which an agreement has not been entered into under this paragraph include acreage in a quantity that exceeds the statutory entitlement of the corporation by 1/10 of 1 percent or less, but not more than the applicable acreage limitation specified in paragraph (2)—

(i) the entitlement shall be considered satisfied by the conveyance of the surveyed area; and

(ii) the Secretary shall not change the survey for the sole purpose of an acreage adjustment.

(F) This paragraph does not limit or otherwise affect the ability of a Village or Regional Corporation to enter into land exchanges with the United States.

**(e) Surface and/or subsurface estates to Regional Corporations**

Immediately after selection by a Regional Corporation, the Secretary shall convey to the Regional Corporation title to the surface and/or the subsurface estates, as is appropriate, in the lands selected.

**(f) Patents to Village Corporations for surface estates and to Regional Corporations for subsurface estates; excepted lands; mineral rights, consent of Village Corporations**

When the Secretary issues a patent to a Village Corporation for the surface estate in lands pursuant to subsections (a) and (b) of this section, he shall issue to the Regional Corporation for the region in which the lands are located a patent to the subsurface estate in such lands, except lands located in the National Wildlife Refuge System and lands withdrawn or reserved for national defense purposes, including Naval Petroleum Reserve Numbered 4, for which in lieu rights are provided for in section 1611(a)(1) of this title: *Provided*, That the right to explore, develop, or remove minerals from the subsurface estate in the lands within the boundaries of any Native village shall be subject to the consent of the Village Corporation.

**(g) Valid existing rights preserved; saving provisions in patents; patentee rights; administration; proportionate rights of patentee**

All conveyances made pursuant to this chapter shall be subject to valid existing rights.

Where, prior to patent of any land or minerals under this chapter, a lease, contract, permit, right-of-way, or easement (including a lease issued under section 6(g) of the Alaska Statehood Act) has been issued for the surface or minerals covered under such patent, the patent shall contain provisions making it subject to the lease, contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the State or the United States as lessor, contractor, permitter, or grantor, in any such leases, contracts, permits, rights-of-way, or easements covering the estate patented, and a lease issued under section 6(g) of the Alaska Statehood Act shall be treated for all purposes as though the patent had been issued to the State. The administration of such lease, contract, permit, right-of-way, or easement shall continue to be by the State or the United States, unless the agency responsible for administration waives administration. In the event that the patent does not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, permit, right-of-way, or easement by the State or the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the patent and the denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

**(h) Authorization for land conveyances; surface and subsurface estates**

The Secretary is authorized to withdraw and convey 2 million acres of unreserved and unappropriated public lands located outside the areas withdrawn by sections 1610 and 1615 of this title, and[1] follows:

(1)(A) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places.

(B) Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.

(C)(i) Notwithstanding acreage allocations made before December 10, 2004, the Secretary may convey any cemetery site or historical place—

(I) with respect to which there is an application on record with the Secretary on December 10, 2004; and

(II) that is eligible for conveyance.

(ii) Clause (i) shall also apply to any of the 188 closed applications that are determined to be eligible and reinstated under Secretarial Order No. 3220 dated January 5, 2001.

(D) No applications submitted for the conveyance of land under subparagraph (A) that were closed before December 10, 2004, may be reinstated other than those specified in subparagraph (C)(ii).

(E) After December 10, 2004—

(i) no application may be filed for the conveyance of land under subparagraph (A); and

(ii) no pending application may be amended, except as necessary to conform the application to the description in the certification of eligibility of the Bureau of Indian Affairs.

(F) Unless, not later than 1 year after December 10, 2004, a Regional Corporation that has filed an application for a historic place submits to the Secretary a statement on the significance of and the location of the historic place—

(i) the application shall not be valid; and

(ii) the Secretary shall reject the application.

(G) The State and the head of the Federal agency with administrative jurisdiction over the land shall have 30 days to provide written comments to the Secretary—

(i) identifying any third party interest to which a conveyance under subparagraph (A) should be made subject; and

(ii) describing any easements recommended for reservation.

(2) The Secretary may withdraw and convey to a Native group that does not qualify as a Native village, if it incorporates under the laws of Alaska, title to the surface estate in not more than 23,040 acres surrounding the Native group's locality. The subsurface estate in such land shall be conveyed to the appropriate Regional Corporation unless the lands are located in a Wildlife Refuge;

(3) The Secretary may withdraw and convey to the Natives residing in Sitka, Kenai, Juneau, and Kodiak, if they incorporate under the laws of Alaska, the surface estate of lands of a similar character in not more than 23,040 acres of land, which shall be located in reasonable proximity to the municipalities. The subsurface estate in such lands shall be conveyed to the appropriate Regional Corporation unless the lands are located in a Wildlife Refuge;

(4) The Secretary shall withdraw only such lands surrounding the villages and municipalities as are necessary to permit the conveyance authorized by paragraphs (2) and (3) to be planned and effected;

(5) The Secretary may convey to a Native, upon application within two years from December 18, 1971, the surface estate in not to exceed 160 acres of land occupied by the Native as a primary place of residence on August 31, 1971. Determination of occupancy shall be made by the Secretary, whose decision shall be final. The subsurface estate in such lands shall be conveyed to the appropriate Regional Corporations unless the lands are located on a Wildlife Refuge;

(6) The Secretary shall charge against the 2 million acres authorized to be conveyed by this section all allotments approved pursuant to section 1617 of this title during the four years following December 18, 1971. Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as

[1] So in original. Probably should be ''as''.

amended [43 U.S.C. 270–11 to 270–13],[2] in a Native Allotment approved pursuant to section 1617 of this title during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended.

(7) The Secretary may withdraw and convey lands out of the National Wildlife Refuge System and out of the National Forests, for the purposes set forth in paragraphs (1), (2), (3), and (5) of this subsection; and

(8)(A) Any portion of the 2 million acres not conveyed by this subsection shall be allocated and conveyed to the Regional Corporations on the basis of population.

(B) Such allocation as the Regional Corporation for southeastern Alaska shall receive under this paragraph shall be selected and conveyed from lands that were withdrawn by sections 1615(a) and 1615(d) of this title and not selected by the Village Corporations in southeastern Alaska; except lands on Admiralty Island in the Angoon withdrawal area and, without the consent of the Governor of the State of Alaska or his delegate, lands in the Saxman and Yakutat withdrawal areas are not available for selection or conveyance under this paragraph.

(C)(i) Notwithstanding any other provision of this subsection, as soon as practicable after December 10, 2004, the Secretary shall allocate to a Regional Corporation eligible for an allocation under subparagraph (A) the Regional Corporation's share of 200,000 acres from lands withdrawn under this subsection, to be credited against acreage to be allocated to the Regional Corporation under subparagraph (A).

(ii) Clause (i) shall apply to Chugach Alaska Corporation pursuant to the terms of the 1982 CNI Settlement Agreement.

(iii) With respect to Cook Inlet Region, Inc., or Koniag, Inc.—

(I) clause (i) shall not apply; and

(II) the portion of the 200,000 acres allocated to Cook Inlet Region Inc. or Koniag, Inc., shall be retained by the United States.

(iv) This subparagraph shall not affect any prior agreement entered into by a Regional Corporation other than the agreements specifically referred to in this subparagraph.

(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary, or, as to Cook Inlet Region, Incorporated, from those areas designated for in lieu selection in paragraph I.B.(2) of the document identified in section 12(b) of Public Law 94–204. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 1616(d)(1) of this title, and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

(10)(A) Notwithstanding the provisions of subsection 1621(h) of this title the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

(B) If a Regional Corporation does not have enough valid selections on file to fulfill the remaining entitlement of the Regional Corporation under paragraph (8), the Secretary may use the withdrawal authority under subparagraph (A) to withdraw land that is vacant, unappropriated, and unreserved on December 10, 2004, for selection by, and conveyance to, the Regional Corporation to fulfill the entitlement.

(11) For purposes set forth in paragraphs (1), (2), (3), (5), and (6) of this subsection, the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on December 18, 1971.

(Pub. L. 92–203, § 14, Dec. 18, 1971, 85 Stat. 702; Pub. L. 95–178, § 2, Nov. 15, 1977, 91 Stat. 1369; Pub. L. 96–487, title XIV, §§ 1404, 1405, 1406(a)–(d), Dec. 2, 1980, 94 Stat. 2493, 2494; Pub. L. 104–42, title I, § 104, Nov. 2, 1995, 109 Stat. 355; Pub. L. 108–452, title II, §§ 203–206, Dec. 10, 2004, 118 Stat. 3583–3585.)

REFERENCES IN TEXT

Section 6(g) of the Alaska Statehood Act, referred to in subsec. (g), is section 6(g) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

December 10, 2004, referred to in subsec. (h)(1)(C)(i)(I), (D), (E), (F), was in the original "the date of enactment of this paragraph", which was translated as meaning the date of enactment of Pub. L. 108–452, which amended par. (1) of subsec. (h), to reflect the probable intent of Congress.

Act of March 8, 1922, as amended, referred to in subsec. (h)(6), is act Mar. 8, 1922, ch. 96, 42 Stat. 415, as amended, which enacted sections 270–11 to 270–13 of this title. Sections 270–11 and 270–13 of this title were repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789. For complete classification of this Act to the Code, see Tables.

Section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended, referred to in subsec. (h)(6), (9), is section 12 of Pub. L. 94–204, Jan. 2, 1976, 89 Stat. 1150, which is set out as a note under section 1611 of this title.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–452, § 203, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (h)(1). Pub. L. 108–452, § 204, designated first sentence as subpar. (A) and second sentence as subpar. (B) and added subpars. (C) to (G).

Subsec. (h)(8)(C). Pub. L. 108–452, § 205, added subpar. (C).

[2] See References in Text note below.

Subsec. (h)(10). Pub. L. 108–452, § 206, designated existing provisions as subpar. (A) and added subpar. (B).

1995—Subsec. (c). Pub. L. 104–42 inserted last par.

1980—Subsec. (c)(1). Pub. L. 96–487, § 1404(a), inserted ''as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation)'' after ''in the tract occupied''.

Subsec. (c)(2). Pub. L. 96–487, § 1404(b), inserted ''as of December 18, 1971'' after ''in any tract occupied''.

Subsec. (c)(3). Pub. L. 96–487, § 1405, inserted provision authorizing the Village Corporation and the Municipal Corporation or the State in trust to agree to a lesser amount than 1,280 acres and requiring any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed be paid to the Village Corporation by the Municipal Corporation or the State in trust.

Subsec. (c)(4). Pub. L. 96–487, § 1404(c), inserted ''as such existed on December 18, 1971'' after ''navigation aids'' and ''as such airport sites, runways, and other facilities existed as of December 18, 1971'' after ''airport runways''. Amendment, which directed that subsec. (c)(4) end with a period, was executed by substituting ''; and'' to reflect the probable intent of Congress.

Subsec. (h)(1). Pub. L. 96–487, § 1406(a), inserted provision that only title to the surface estate be conveyed for lands located in a Wildlife Refuge when the cemetery or historical site is greater than 640 acres.

Subsec. (h)(2), (5). Pub. L. 96–487, § 1406(b), inserted ''unless the lands are located in a Wildlife Refuge'' after ''Regional Corporation''.

Subsec. (h)(6). Pub. L. 96–487, § 1406(c), substituted provision that any minerals reserved by the United States pursuant to the Act of Mar. 8, 1922, in a Native Allotment approved pursuant to section 1617 of this title during the period Dec. 18, 1971 through Dec. 18, 1975, be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of Act Jan. 2, 1976, for provision that the Secretary charge against the 2 million acres authorized all allotments approved pursuant to section 1617 of this title during the four years following Dec. 18, 1971.

Subsec. (h)(9) to (11). Pub. L. 96–487, § 1406(d), added pars. (9) to (11).

1977—Subsec. (h)(8). Pub. L. 95–178 designated existing provisions as subpar. (A) and added subpar. (B).

CLAIM TO SUBSURFACE ESTATE OF LANDS IN WILDLIFE REFUGE; ENTITLEMENT TO IN LIEU SURFACE OR SUBSURFACE ESTATE; TIME LIMITATION; WAIVER

Section 1406(e) of Pub. L. 96–487 provided that: ''Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act [subsec. (h) of this section] which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act [section 1611(c)(4) of this title and subsec. (h)(9) of this section]. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act [Dec. 2, 1980]. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act [Dec. 18, 1971].''

ESCROW ACCOUNT PENDING CONVEYANCE OF WITHDRAWN LANDS; PROCEEDS NOT DEPOSITED IN ACCOUNT; PAYMENTS; INTEREST; DEPOSIT OF ACCOUNT IN UNITED STATES TREASURY; PUBLIC EASEMENTS; AUTHORITY FOR PAYMENT OUT OF TREASURY FUNDS

Pub. L. 94–204, § 2, Jan. 2, 1976, 89 Stat. 1146, as amended by Pub. L. 96–487, title XIV, § 1411, Dec. 2, 1980, 94 Stat. 2497; Pub. L. 99–396, § 22, Aug. 27, 1986, 100 Stat. 846; Pub. L. 100–581, title II, § 218, Nov. 1, 1988, 102 Stat. 2942, provided that:

''(a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act [this chapter], any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands, including wildlife proceeds received between the date of withdrawal and the date of conveyance from harvests on lands conveyed pursuant to the Act, withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

''(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act [probably means Dec. 2, 1980], whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That the interest on proceeds received prior to January 2, 1976, shall be calculated and paid at the rate of the earnings on Individual Indian Moneys in the custody of the Secretary of the Interior pursuant to sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9) and invested by him pursuant to the Act of June 24, 1938 (25 U.S.C. 162a), from the date of receipt to January 2, 1976. Effective January 2, 1976, the interest so calculated shall be added to the principal amount of such proceeds. The interest on this total amount and on proceeds received on or after January 2, 1976, shall be calculated and paid as though such proceeds and previously calculated interest had been deposited in the escrow account from January 2, 1976, or the date of receipt, whichever occurs later, to the date of payment to the affected Corporation.[:] *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

''(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

''(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act [this chapter], or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act [enacting sections 1625 to 1627 of this title, amending sections 1615,

1616, 1620, and 1621 of this title, and enacting provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title].

''(5) Lands withdrawn under this subsection include all Federal lands identified under appendices A, B–1, and B–2 of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94–204) [set out as a note under section 1611 of this title] for Cook Inlet Region, Incorporated, and are deemed withdrawn as of the date established in subsection (a) of section 2 of the Act of January 2, 1976 [this subsection].

''(b) The Secretary is authorized to deposit in the Treasury of the United States the escrow account proceeds referred to in subsection (a) of this section, and the United States shall pay interest thereon semiannually from the date of deposit to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided*, That the Secretary in his discretion may withdraw such proceeds from the United States Treasury and reinvest such proceeds in the manner provided by the first section of the Act of June 24, 1938 (52 U.S.C. 1037) [section 162a of Title 25, Indians]: *Provided further*, That this section shall not be construed to create or terminate any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act [this chapter].

''(c) Any and all proceeds from public easements reserved pursuant to section 17(b)(3) of the Settlement Act [section 1616(b)(3) of this title], from or after the date of enactment of this Act [Jan. 2, 1976], shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

''(d) To the extent that there is a conflict between the provisions of this section and any other Federal laws applicable to Alaska, the provisions of this section will govern. Any payment made to any corporation or any individual under authority of this section shall not be subject to any prior obligation under section 9(d) or 9(f) of the Settlement Act [section 1608(d) or section 1608(f) of this title].

''(e) The Secretary shall calculate the amounts payable pursuant to this section and notify the affected Corporation of the results of his calculations. The affected Corporation shall have thirty days in which to appeal the Secretary's calculations after which the Secretary shall promptly make a final determination of the amounts payable. The Secretary shall certify such final determinations to the Secretary of the Treasury and each determination shall constitute a final judgment, award, or compromise settlement under section 1304 of title 31 of the United States Code. The Secretary of the Treasury is authorized and directed to pay such amounts to the appropriate Corporation out of funds in the Treasury: *Provided*, That if the lands from which the proceeds and interest entitlement are derived have not been conveyed to the selecting Native Corporation at the time the Secretary makes his final determination, the Secretary of the Treasury is authorized and directed to pay such amount into the escrow account where it will earn interest and be disbursed in the same manner as other proceeds and interest.''

BOUNDARY BETWEEN SOUTHEASTERN AND CHUGACH REGIONS; HUNTING AND FISHING RIGHTS OF NATIVES OF VILLAGE OF YAKUTAT

Pub. L. 94–204, § 11, Jan. 2, 1976, 89 Stat. 1150, provided that: ''The boundary between the southeastern and Chugach regions shall be the 141st meridian: *Provided*, That the Regional Corporation for the Chugach region shall accord to the Natives enrolled to the Village of Yakutat the same rights and privileges to use any lands which may be conveyed to the Regional Corporation in the vicinity of Icy Bay for such purposes as such Natives have traditionally made thereof, including, but not limited to, subsistence hunting, fishing and gathering, as the Regional Corporation accords to its own shareholders, and shall take no unreasonable or arbitrary action relative to such lands for the primary purpose and having the effect, of impairing or curtailing such rights and privileges.''

## § 1613a. ANCSA amendment

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)),[1] to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

(Pub. L. 109–221, title I, § 102, May 12, 2006, 120 Stat. 337.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

CODIFICATION

Section was enacted as part of the Native American Technical Corrections Act of 2006, and not as part of the Alaska Native Claims Settlement Act which comprises this chapter.

## § 1614. Timber sale contracts; modification; timber from contingency area

(a) Notwithstanding the provisions of existing National Forest timber sale contracts that are directly affected by conveyances authorized by this chapter, the Secretary of Agriculture is authorized to modify any such contract, with the consent of the purchaser, by substituting, to the extent practicable, timber on other national forest lands approximately equal in volume, species, grade, and accessibility for timber standing on any land affected by such conveyances, and, on request of the appropriate Village Corporation the Secretary of Agriculture is directed to make such substitution to the extent it is permitted by the timber sale contract without the consent of the purchaser.

(b) No land conveyed to a Native Corporation pursuant to this chapter or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this chapter, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this chapter shall be entered by the timber con-

[1] So in original. The comma probably should be preceded by an additional closing parenthesis.

tractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term ''contingency area'' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.

(Pub. L. 92–203, § 15, Dec. 18, 1971, 85 Stat. 705; Pub. L. 96–487, title IX, § 908, Dec. 2, 1980, 94 Stat. 2447.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to subsec. (b), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

AMENDMENTS

1980—Pub. L. 96–487 designated existing provision as subsec. (a) and added subsec. (b).

### § 1615. Withdrawal and selection of public lands; funds in lieu of acreage

#### (a) Withdrawal of public lands; list of Native villages

All public lands in each township that encloses all or any part of a Native village listed below, and in each township that is contiguous to or corners on such township, except lands withdrawn or reserved for national defense purposes, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, as amended:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Saxman, Southeast.
Yakutat, Southeast.

#### (b) Native land selections; Village Corporations for listed Native villages; acreage; proximity of selections; conformity to Lands Survey System

During a period of three years from December 18, 1971, each Village Corporation for the villages listed in subsection (a) of this section shall select, in accordance with rules established by the Secretary, an area equal to 23,040 acres, which must include the township or townships in which all or part of the Native village is located, plus, to the extent necessary, withdrawn lands from the townships that are contiguous to or corner on such townships. All selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water, and shall conform as nearly as practicable to the United States Lands Survey System.

#### (c) Tlingit-Haida settlement

The funds appropriated by the Act of July 9, 1968 (82 Stat. 307), to pay the judgment of the Court of Claims in the case of The Tlingit and Haida Indians of Alaska, et al. against The United States, numbered 47,900, and distributed to the Tlingit and Haida Indians pursuant to the Act of July 13, 1970 (84 Stat. 431) [25 U.S.C. 1211], are in lieu of the additional acreage to be conveyed to qualified villages listed in section 1610 of this title.

#### (d) Withdrawal of lands for selection for village of Klukwan; benefits under this chapter; existing entitlements; forest reserves; quitclaims to Chilkat Indian Village; location, character, and value of lands to be withdrawn; withdrawal and selection periods; nonwithdrawal of lands selected or nominated for selection by other Native Corporation or located on Admiralty Island

(1) The Secretary is authorized and directed to withdraw seventy thousand acres of public lands, as defined in section 1602 of this title, in order that the Village Corporation for the village of Klukwan may select twenty-three thousand and forty acres of land. Such Corporation and the shareholders thereof shall otherwise participate fully in the benefits provided by this chapter to the same extent as they would have participated had they not elected to acquire title to their former reserve as provided by section 1618(b) of this title: *Provided*, That nothing in this subsection shall affect the existing entitlement of any Regional Corporation to lands pursuant to section 1613(h)(8) of this title: *Provided further*, That no such lands shall be withdrawn from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture: *Provided further*, That the foregoing provisions of this subsection shall not become effective unless and until the Village Corporation for the village of Klukwan shall quitclaim to Chilkat Indian Village, organized under the provisions of the Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250) [25 U.S.C. 461 et seq.], all its right, title, and interest in the lands of the reservation defined in and vested by the Act of September 2, 1957 (71 Stat. 596), which lands are hereby conveyed and confirmed to said Chilkat Indian Village in fee simple absolute, free of trust and all restrictions upon alienation, encumbrance, or otherwise: *Provided further*, That the United States and the Village Corporation for the village of Klukwan shall also quitclaim to said Chilkat Indian Village any right or interest they may have in and to income derived from the reservation lands defined in and vested by the Act of September 2, 1957, after December 18, 1971, and prior to January 2, 1976.

(2) The lands withdrawn by the Secretary pursuant to paragraph (1) of this subsection shall be located in the southeastern Alaska region and shall be of similar character and comparable value, to the extent possible, to those of the Chilkat Valley surrounding the village of Klukwan. Such withdrawal shall be made within six months of October 4, 1976, and the Village Corporation for the village of Klukwan shall select, within one year from the time that the withdrawal is made, and be conveyed, twenty-three thousand and forty acres. None of the lands withdrawn by the Secretary for selection

by the Village Corporation for the village of Klukwan shall have been selected by, or be subject to an outstanding nomination for selection by, any other Native Corporation organized pursuant to this chapter, or located on Admiralty Island.

(Pub. L. 92–203, § 16, Dec. 18, 1971, 85 Stat. 705; Pub. L. 94–204, §§ 9, 10, Jan. 2, 1976, 89 Stat. 1150; Pub. L. 94–456, § 1, Oct. 4, 1976, 90 Stat. 1934; Pub. L. 95–178, § 1, Nov. 15, 1977, 91 Stat. 1369.)

REFERENCES IN TEXT

The Alaska Statehood Act, as amended, referred to in subsec. (a), is Pub. L. 85–508, July 7, 1958, 72 Stat. 239, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

Act of July 9, 1968 (82 Stat. 307), referred to in subsec. (c), is Pub. L. 90–392, July 9, 1968, 82 Stat. 307, known as the Second Supplemental Appropriation Act, 1968, which is not classified to the Code.

The United States Court of Claims, referred to in subsec. (c), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

Act of July 13, 1970 (84 Stat. 431), referred to in subsec. (c), is Pub. L. 91–335, July 13, 1970, 84 Stat. 431, which enacted section 1211 of Title 25, Indians. For complete classification of this Act to the Code, see Tables.

Act of June 18, 1934, as amended by the Act of May 1, 1936, referred to in subsec. (d)(1), is act June 18, 1934, ch. 576, 48 Stat. 984, as amended by act May 1, 1936, ch. 254, § 1, 49 Stat. 1250, popularly known as the Indian Reorganization Act, is classified generally to subchapter V (§ 461 et seq.) of chapter 14 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 461 of Title 25 and Tables.

Act of September 2, 1957, referred to in subsec. (d)(1), is Pub. L. 85–271, Sept. 2, 1957, 71 Stat. 596, which is not classified to the Code.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95–178 struck out provisions relating to allocations received by the Regional Corporation for the southeastern Alaska region under section 1613(h)(8) of this title and selection and conveyance of such allocated lands.

1976—Subsec. (a). Pub. L. 94–456, § 1(a), struck out ''Klukwan, Southeast.'' from list of villages.

Subsec. (b). Pub. L. 94–204, § 10, inserted provisions relating to the selection and conveyance of such allocation as the Regional Corporation for the southeastern Alaska region shall receive.

Subsec. (d). Pub. L. 94–456, § 1(b), designated existing provisions as par. (1), substituting provision relating to authorization and direction of Secretary to withdraw lands in order that the Village Corporation may select twenty-three thousand and forty acres for provision that the lands enclosing and surrounding the village which were withdrawn by subsec. (a) are rewithdrawn to the same extent and for the same purposes as provided by said subsec. (a) for one year from January 2, 1976, during which the Village Corporation shall select an area equal to twenty-three thousand and forty acres in accordance with subsec. (b) and inserting proviso against withdrawal of such lands from an area previously withdrawn as a forest reserve without prior consultation with the Secretary of Agriculture, and added par. (2).

Pub. L. 94–204, § 9, added subsec. (d).

## § 1616. Joint Federal-State Land Use Planning Commission for Alaska

### (a), (b) Omitted

### (c) Prohibition against selection of lands from withdrawn area in event of withdrawal of utility and transportation corridor across public lands

In the event that the Secretary withdraws a utility and transportation corridor across public lands in Alaska pursuant to his existing authority, the State, the Village Corporations and the Regional Corporations shall not be permitted to select lands from the area withdrawn.

### (d) Public Land Order Numbered 4582 revoked; withdrawal of unreserved public lands; classification and reclassification of lands; opening lands to appropriation; administration; contracting and other authority of Secretary not impaired by withdrawal

(1) Public Land Order Numbered 4582, 34 Federal Register 1025, as amended, is hereby revoked. For a period of ninety days after December 18, 1971, all unreserved public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining (except locations for metalliferous minerals) and the mineral leasing laws. During this period of time the Secretary shall review the public lands in Alaska and determine whether any portion of these lands should be withdrawn under authority provided for in existing law to insure that the public interest in these lands is properly protected. Any further withdrawal shall require an affirmative act by the Secretary under his existing authority, and the Secretary is authorized to classify or reclassify any lands so withdrawn and to open such lands to appropriation under the public land laws in accord with his classifications. Withdrawals pursuant to this paragraph shall not affect the authority of the Village Corporations, the Regional Corporations, and the State to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(2)(A) The Secretary, acting under authority provided for in existing law, is directed to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act, and from selection by Regional Corporations pursuant to section 1610 of this title, up to, but not to exceed, eighty million acres of unreserved public lands in the State of Alaska, including previously classified lands, which the Secretary deems are suitable for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems: *Provided*, That such withdrawals shall not affect the authority of the State and the Regional and Village Corporations to make selections and obtain patents within the areas withdrawn pursuant to section 1610 of this title.

(B) Lands withdrawn pursuant to paragraph (A) hereof must be withdrawn within nine months of December 18, 1971. All unreserved public lands not withdrawn under paragraph (A) or subsection (d)(1) of this section shall be avail-

able for selection by the State and for appropriation under the public land laws.

(C) Every six months, for a period of two years from December 18, 1971, the Secretary shall advise the Congress of the location, size and values of lands withdrawn pursuant to paragraph (A) and submit his recommendations with respect to such lands. Any lands withdrawn pursuant to paragraph (A) not recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems at the end of the two years shall be available for selection by the State and the Regional Corporations, and for appropriations under the public land laws.

(D) Areas recommended by the Secretary pursuant to paragraph (C) shall remain withdrawn from any appropriation under the public land laws until such time as the Congress acts on the Secretary's recommendations, but not to exceed five years from the recommendation dates. The withdrawal of areas not so recommended shall terminate at the end of the two year period.

(E) Notwithstanding any other provision of this subsection, initial identification of lands desired to be selected by the State pursuant to the Alaska Statehood Act and by the Regional Corporations pursuant to section 1611 of this title may be made within any area withdrawn pursuant to this subsection (d), but such lands shall not be tentatively approved or patented so long as the withdrawals of such areas remain in effect: *Provided*, That selection of lands by Village Corporations pursuant to section 1611 of this title shall not be affected by such withdrawals and such lands selected may be patented and such rights granted as authorized by this chapter. In the event Congress enacts legislation setting aside any areas withdrawn under the provisions of this subsection which the Regional Corporations or the State desired to select, then other unreserved public lands shall be made available for alternative selection by the Regional Corporations and the State. Any time periods established by law for Regional Corporations or State selections are hereby extended to the extent that delays are caused by compliance with the provisions of this subsection (2).

(3) Any lands withdrawn under this section shall be subject to administration by the Secretary under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal.

(Pub. L. 92–203, § 17, Dec. 18, 1971, 85 Stat. 706; Pub. L. 94–204, § 7, Jan. 2, 1976, 89 Stat. 1149.)

REFERENCES IN TEXT

Alaska Statehood Act, referred to in subsec. (d)(2)(A), (E), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsecs. (a) and (b) of this section, which related to the establishment, membership, compensation, procedures, duties and powers of the Joint Federal-State Land Use Planning Commission for Alaska and authorized the Commission to identify public easements across selected lands in Alaska, were omitted pursuant to former subsec. (a)(10) of this section which provided that the Commission was to cease to exist effective June 30, 1979.

AMENDMENTS

1976—Subsec. (a)(10). Pub. L. 94–204 extended the life of the Commission from Dec. 31, 1976 to June 30, 1979, directed the submission of multiple reports, with an interim report to be submitted on or before May 30, 1976, and extended from May 30, 1976 to May 30, 1979 the date on or before which the final report shall be submitted.

## § 1617. Revocation of Indian allotment authority in Alaska

### (a) Revocation of authority

No Native covered by the provisions of this chapter, and no descendant of his, may hereafter avail himself of an allotment under the provisions of the Act of February 8, 1887 (24 Stat. 389), as amended and supplemented, or the Act of June 25, 1910 (36 Stat. 363). Further, the Act of May 17, 1906 (34 Stat. 197), as amended, is repealed. Notwithstanding the foregoing provisions of this section, any application for an allotment that is pending before the Department of the Interior on December 18, 1971, may, at the option of the Native applicant, be approved and a patent issued in accordance with said 1887, 1910, or 1906 Act, as the case may be, in which event the Native shall not be eligible for a patent under section 1613(h)(5) of this title.

### (b) Charging allotment against statutory grant

Any allotments approved pursuant to this section during the four years following December 18, 1971, shall be charged against the two million acre grant provided for in section 1613(h) of this title.

### (c) Relocation of allotment

(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of October 14, 1992, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not

tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled ''An Act to provide for the admission of the State of Alaska into the Union'', approved July 7, 1958 (commonly referred to as the ''Alaska Statehood Act''), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.

**(d) Correction of conveyance documents**

(1) If an allotment application is valid or would have been approved under section 1634 of this title had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

(2) A written concurrence shall—

(A) include a finding that the land description proposed by the Secretary is acceptable; and

(B) attest that the Native Corporation or the State has not—

(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and

(ii) stored or allowed the deposit of hazardous waste on the land.

(3) On receipt of an acceptable written concurrence, the Secretary, shall—

(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

(B) issue a certificate of allotment to the allotment applicant.

(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.

**(e) Native allotment revisions on land selected by or conveyed to a Native Corporation**

(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of December 10, 2004, may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

(A) the application—

(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this chapter; or

(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

(2) The land description in an allotment application may not be revised under this section unless the Secretary has determined—

(A) that the allotment application is valid or would have been approved under section 1634 of this title had the land in the allotment application been in Federal ownership on December 2, 1980;

(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 3102 of title 16); and

(C) that the proposed revision will facilitate completion of a land transfer in the State.

(3)(A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

(B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.

**(f) Reinstatements and reconstructions**

(1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, the United States—

(A) may seek voluntary reconveyance of any land described in the application that is rein-

stated or reconstructed after December 10, 2004; but

(B) shall not file an action in any court to recover title from a current landowner.

(2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after December 10, 2004 shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.

(Pub. L. 92–203, § 18, Dec. 18, 1971, 85 Stat. 710; Pub. L. 102–415, § 3, Oct. 14, 1992, 106 Stat. 2112; Pub. L. 108–452, title III, §§ 301, 303, 305, Dec. 10, 2004, 118 Stat. 3587, 3588, 3590.)

REFERENCES IN TEXT

Act of February 8, 1887 (24 Stat. 389), referred to in subsec. (a), is popularly known as the Indian General Allotment Act. For complete classification of this Act to the Code, see Short Title note set out under section 331 of Title 25, Indians, and Tables.

Act of June 25, 1910 (36 Stat. 363), referred to in subsec. (a), probably means act June 25, 1910, ch. 431, 36 Stat. 855, which enacted section 148 of this title, sections 104 and 107 of former Title 18, Criminal Code and Criminal Procedure, sections 47, 93, 151, 191, 202, 312, 331, 333, 336, 337, 344a, 351, 352, 353, 372, 373, 403, 406, 407, 408 of Title 25, section 6a–1 of former Title 41, Public Contracts. Sections 104 and 107 of former Title 18 were repealed in the general revision of that title by act June 25, 1948, ch. 645, 62 Stat. 683, and were reenacted as sections 1853 and 1856 of Title 18, Crimes and Criminal Procedure. Section 6a–1 of former Title 41 was repealed and restated as section 6102(e) of Title 41, Public Contracts, by Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906 (34 Stat. 197), as amended, referred to in subsecs. (a), (d)(2)(B)(i), and (f)(1), is act May 17, 1906, ch. 2469, 34 Stat. 197, which enacted sections 270–1, 270–2, and 270–3 of this title, and was repealed by Pub. L. 92–203, § 18(a), Dec. 18, 1971, 85 Stat. 710. For complete classification of this Act to the Code, see Tables.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(2)(A), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

Section 6 of the Act entitled ''An Act to provide for the admission of the State of Alaska into the Union'', approved July 7, 1958 (commonly referred to as the ''Alaska Statehood Act''), referred to in subsec. (c)(2)(B), is section 6 of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–452, § 301, added subsec. (d).

Subsec. (e). Pub. L. 108–452, § 303, added subsec. (e).

Subsec. (f). Pub. L. 108–452, § 305, added subsec. (f).

1992—Subsec. (c). Pub. L. 102–415 added subsec. (c).

TITLE RECOVERY OF NATIVE ALLOTMENTS

Pub. L. 108–452, title III, § 302, Dec. 10, 2004, 118 Stat. 3588, provided that:

''(a) IN GENERAL.—In lieu of the process for the correction of conveyance documents available under subsection (d) of section 18 of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617(d)], any Native Corporation may elect to reconvey all of the land encompassed by an allotment claim or a portion of the allotment claim agreeable to the applicant in satisfaction of the entire claim by tendering a valid and appropriate deed to the United States.

''(b) CERTIFICATE OF ALLOTMENT.—If the United States determines that the allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634) had the land described in the allotment application been in Federal ownership on December 2, 1980, and obtains title evidence acceptable under the Department of Justice title standards, the United States shall accept the deed from the Native Corporation and issue a certificate of allotment to the allotment applicant.

''(c) PROBATE NOT REQUIRED.—If the Native Corporation reconveys the entire interest of the Native Corporation in the allotment claim of a deceased applicant, the United States may accept the deed and issue the certificate of allotment without waiting for a determination of heirs or the approval of a will.

''(d) NO LIABILITY.—The United States shall not be subject to liability under Federal or State [of Alaska] law for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to, and transfer by, the United States of land or interests in land under this section.''

COMPENSATORY ACREAGE

Pub. L. 108–452, title III, § 304, Dec. 10, 2004, 118 Stat. 3589, provided that:

''(a) IN GENERAL.—The Secretary [of the Interior] shall adjust the acreage entitlement computation records for the State [of Alaska] or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617(d)] or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating land transfers in the State.

''(b) LIMITATION.—No adjustment to the acreage conveyance computations shall be made where the State or an affected Native Corporation retains a partial estate in the described allotment land.

''(c) AVAILABILITY OF ADDITIONAL LAND.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) [43 U.S.C. 1617(d)] or any voluntary reconveyance to facilitate a land transfer, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary may use the authority and procedures available under paragraph (3) of section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) (as added by section 208) to make additional land available for selection by the Village Corporation.''

ALASKA NATIVE ALLOTMENT SUBDIVISION

Pub. L. 108–337, Oct. 18, 2004, 118 Stat. 1357, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Alaska Native Allotment Subdivision Act'.

''SEC. 2. DEFINITIONS.

''In this Act:

''(1) RESTRICTED LAND.—The term 'restricted land' means land in the State that is subject to Federal restrictions against alienation and taxation.

''(2) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(3) STATE.—The term 'State' means the State of Alaska.

''SEC. 3. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

''(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

''(1) subdivide the restricted land in accordance with the laws of the—

''(A) State; or

''(B) applicable local platting authority; and

''(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

''(b) RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.—Any subdivision or dedication of restricted land executed before the date of enactment of this Act [Oct. 18, 2004] that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

''SEC. 4. EFFECT ON STATUS OF LAND NOT DEDICATED.

''Except in a case in which a specific interest in restricted land is dedicated under section 3(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 3(a)(1)).''

## § 1618. Revocation of reserved rights; excepted reserve; acquisition of title to surface and subsurface estates in reserve; election of Village Corporations; restoration of land to Elim Native Corporation

### (a) Revocation of reserved rights; excepted reserve

Notwithstanding any other provision of law, and except where inconsistent with the provisions of this chapter, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for administration of Native affairs, including those created under section 497 of title 25, are hereby revoked subject to any valid existing rights of non-Natives. This section shall not apply to the Annette Island Reserve established by section 495 of title 25 and no person enrolled in the Metlakatla Indian community of the Annette Island Reserve shall be eligible for benefits under this chapter.

### (b) Acquisition of title to surface and subsurface estates in reserve; election of Village Corporations

Notwithstanding any other provision of law or of this chapter, any Village Corporation or Corporations may elect within two years to acquire title to the surface and subsurface estates in any reserve set aside for the use or benefit of its stockholders or members prior to December 18, 1971. If two or more villages are located on such reserve, the election must be made by all of the members or stockholders of the Village Corporations concerned. In such event, the Secretary shall convey the land to the Village Corporation or Corporations, subject to valid existing rights as provided in section 1613(g) of this title, and the Village Corporation shall not be eligible for any other land selections under this chapter or to any distribution of Regional Corporations funds pursuant to section 1606 of this title, and the enrolled residents of the Village Corporation shall not be eligible to receive Regional Corporation stock.

### (c) Restoration of land to Elim Native Corporation

#### (1) Findings

The Congress finds that—

(A) approximately 350,000 acres of land were withdrawn by Executive orders in 1917 for the use of the United States Bureau of Education and of the Natives of Indigenous Alaskan race;

(B) these lands comprised the Norton Bay Reservation (later referred to as Norton Bay Native Reserve) and were set aside for the benefit of the Native inhabitants of the Eskimo Village of Elim, Alaska;

(C) in 1929, 50,000 acres of land were deleted from the Norton Bay Reservation by Executive order;

(D) the lands were deleted from the Reservation for the benefit of others;

(E) the deleted lands were not available to the Native inhabitants of Elim under subsection (b) of this section at the time of passage of this chapter;

(F) the deletion of these lands has been and continues to be a source of deep concern to the indigenous people of Elim; and

(G) until this matter is dealt with, it will continue to be a source of great frustration and sense of loss among the shareholders of the Elim Native Corporation and their descendants.

#### (2) Withdrawal

The lands depicted and designated ''Withdrawal Area'' on the map dated October 19, 1999, along with their legal descriptions, on file with the Bureau of Land Management, and entitled ''Land Withdrawal Elim Native Corporation'', are hereby withdrawn, subject to valid existing rights, from all forms of appropriation or disposition under the public land laws, including the mining and mineral leasing laws, for a period of 2 years from May 2, 2000, for selection by the Elim Native Corporation (hereinafter referred to as ''Elim'').

#### (3) Authority to select and convey

Elim is authorized to select in accordance with the rules set out in this paragraph, 50,000 acres of land (hereinafter referred to as ''Conveyance Lands'') within the boundary of the Withdrawal Area described in paragraph (2). The Secretary is authorized and directed to convey to Elim in fee the surface and subsurface estates to 50,000 acres of valid selections in the Withdrawal Area, subject to the covenants, reservations, terms and conditions and other provisions of this subsection.

(A) Elim shall have 2 years from May 2, 2000, in which to file its selection of no more than 60,000 acres of land from the area described in paragraph (2). The selection application shall be filed with the Bureau of Land Management, Alaska State Office, shall describe a single tract adjacent to United States Survey No. 2548, Alaska, and shall be reasonably compact, contiguous, and in whole sections except when separated by un-

available land or when the remaining entitlement is less than a whole section. Elim shall prioritize its selections made pursuant to this subsection at the time such selections are filed, and such prioritization shall be irrevocable. Any lands selected shall remain withdrawn until conveyed or full entitlement has been achieved.

(B) The selection filed by Elim pursuant to this subsection shall be subject to valid existing rights and may not supercede prior selections of the State of Alaska, any Native corporation, or valid entries of any private individual unless such selection or entry is relinquished, rejected, or abandoned prior to conveyance to Elim.

(C) Upon receipt of the Conveyance Lands, Elim shall have all legal rights and privileges as landowner, subject only to the covenants, reservations, terms and conditions specified in this subsection.

(D) Selection by Elim of lands under this subsection and final conveyance of those lands to Elim shall constitute full satisfaction of any claim of entitlement of Elim with respect to its land entitlement.

**(4) Covenants, reservations, terms and conditions**

The covenants, reservations, terms and conditions set forth in this paragraph and in paragraphs (5) and (6) with respect to the Conveyance Lands shall run with the land and shall be incorporated into the interim conveyance, if any, and patent conveying the lands to Elim.

(A) Consistent with paragraph (3)(C) and subject to the applicable covenants, reservations, terms and conditions contained in this paragraph and paragraphs (5) and (6), Elim shall have all rights to the timber resources of the Conveyance Lands for any use including, but not limited to, construction of homes, cabins, for firewood and other domestic uses on any Elim lands: *Provided*, That cutting and removal of Merchantable Timber from the Conveyance Lands for sale shall not be permitted: *Provided further*, That Elim shall not construct roads and related infrastructure for the support of such cutting and removal of timber for sale or permit others to do so. ''Merchantable Timber'' means timber that can be harvested and marketed by a prudent operator.

(B) Public Land Order 5563 of December 16, 1975, which made hot or medicinal springs available to other Native Corporations for selection and conveyance, is hereby modified to the extent necessary to permit the selection by Elim of the lands heretofore encompassed in any withdrawal of hot or medicinal springs and is withdrawn pursuant to this subsection. The Secretary is authorized and directed to convey such selections of hot or medicinal springs (hereinafter referred to as ''hot springs'') subject to applicable covenants, reservations, terms and conditions contained in paragraphs (5) and (6).

(C) Should Elim select and have conveyed to it lands encompassing portions of the Tubutulik River or Clear Creek, or both, Elim shall not permit surface occupancy or knowingly permit any other activity on those portions of land lying within the bed of or within 300 feet of the ordinary high waterline of either or both of these water courses for purposes associated with mineral or other development or activity if they would cause or are likely to cause erosion or siltation of either water course to an extent that would significantly adversely impact water quality or fish habitat.

**(5) Rights retained by the United States**

With respect to conveyances authorized in paragraph (3), the following rights are retained by the United States:

(A) To enter upon the conveyance lands, after providing reasonable advance notice in writing to Elim and after providing Elim with an opportunity to have a representative present upon such entry, in order to achieve the purpose and enforce the terms of this paragraph and paragraphs (4) and (6).

(B) To have, in addition to such rights held by Elim, all rights and remedies available against persons, jointly or severally, who cut or remove Merchantable Timber for sale.

(C) In cooperation with Elim, the right, but not the obligation, to reforest in the event previously existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar manmade or natural occurrence (excluding manmade occurrences resulting from the exercise by Elim of its lawful rights to use the Conveyance Lands).

(D) The right of ingress and egress over easements under section 1616(b)[1] of this title for the public to visit, for noncommercial purposes, hot springs located on the Conveyance Lands and to use any part of the hot springs that is not commercially developed.

(E) The right to enter upon the lands containing hot springs for the purpose of conducting scientific research on such hot springs and to use the results of such research without compensation to Elim. Elim shall have an equal right to conduct research on the hot springs and to use the results of such research without compensation to the United States.

(F) A covenant that commercial development of the hot springs by Elim or its successors, assigns, or grantees shall include the right to develop only a maximum of 15 percent of the hot springs and any land within ¼ mile of the hot springs. Such commercial development shall not alter the natural hydrologic or thermal system associated with the hot springs. Not less than 85 percent of the lands within ¼ mile of the hot springs shall be left in their natural state.

(G) The right to exercise prosecutorial discretion in the enforcement of any covenant, reservation, term or condition shall not waive the right to enforce any covenant, reservation, term or condition.

**(6) General**

**(A) Memorandum of Understanding**

The Secretary and Elim shall, acting in good faith, enter into a Memorandum of Un-

[1] See References in Text note below.

derstanding (hereinafter referred to as the ''MOU'') to implement the provisions of this subsection. The MOU shall include among its provisions reasonable measures to protect plants and animals in the hot springs on the Conveyance Lands and on the land within ¼ mile of the hot springs. The parties shall agree to meet periodically to review the matters contained in the MOU and to exercise their right to amend, replace, or extend the MOU. Such reviews shall include the authority to relocate any of the easements set forth in subparagraph (D) if the parties deem it advisable.

**(B) Incorporation of terms**

Elim shall incorporate the covenants, reservations, terms and conditions, in this subsection in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Conveyance Lands, including without limitation, a leasehold interest.

**(C) Section 1616(b) easements**

The Bureau of Land Management, in consultation with Elim, shall reserve in the conveyance to Elim easements to the United States pursuant to subsection[2] 1616(b)[1] of this title that are not in conflict with other easements specified in this paragraph.

**(D) Other easements**

The Bureau of Land Management, in consultation with Elim, shall reserve easements which shall include the right of the public to enter upon and travel along the Tubutulik River and Clear Creek within the Conveyance Lands. Such easements shall also include easements for trails confined to foot travel along, and which may be established along each bank of, the Tubutulik River and Clear Creek. Such trails shall be 25 feet wide and upland of the ordinary high waterline of the water courses. The trails may deviate from the banks as necessary to go around man-made or natural obstructions or to portage around hazardous stretches of water. The easements shall also include one-acre sites along the water courses at reasonable intervals, selected in consultation with Elim, which may be used to launch or take out water craft from the water courses and to camp in non-permanent structures for a period not to exceed 24 hours without the consent of Elim.

**(E) Inholders**

The owners of lands held within the exterior boundaries of lands conveyed to Elim shall have all rights of ingress and egress to be vested in the inholder and the inholder's agents, employees, co-venturers, licensees, subsequent grantees, or invitees, and such easements shall be reserved in the conveyance to Elim. The inholder may not exercise the right of ingress and egress in a manner that may result in substantial damage to the surface of the lands or make any permanent improvements on Conveyance Lands without the prior consent of Elim.

**(F) Iditarod trail**

The Bureau of Land Management may reserve an easement for the Iditarod National Historic Trail in the conveyance to Elim.

**(7) Implementation**

There are authorized to be appropriated such sums as may be necessary to implement this subsection.

(Pub. L. 92–203, § 19, Dec. 18, 1971, 85 Stat. 710; Pub. L. 106–194, § 1, May 2, 2000, 114 Stat. 239.)

REFERENCES IN TEXT

The time of passage of this chapter, referred to in subsec. (c)(1)(E), probably means the date of enactment of Pub. L. 92–203, which was approved Dec. 18, 1971.

Section 1616(b) of this title, referred to in subsec. (c)(5)(D), (6)(C) was omitted from the Code.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–194 added subsec. (c).

GRANTS TO NATIVE GROUP CORPORATIONS FOR PLANNING, DEVELOPMENT, AND OTHER PURPOSES

Pub. L. 96–487, title XIV, § 1413, Dec. 2, 1980, 94 Stat. 2498, provided that: ''The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act [section 1613(h)(2) of this title] and finally certified as a Native Group, an amount not more than $100,000 or less than $50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act [this chapter].''

GRANTS TO VILLAGE CORPORATIONS FOR PLANNING, DEVELOPMENT AND OTHER PURPOSES

Pub. L. 94–204, § 14, Jan. 2, 1976, 89 Stat. 1154, provided that:

''(a) The Secretary shall pay, by grant, $250,000 to each of the corporations established pursuant to section 14(h)(3) of the Settlement Act [section 1613(h)(3) of this title].

''(b) The Secretary shall pay, by grant, $100,000 to each of the following Village Corporations:

''(1) Arctic Village;
''(2) Elim;
''(3) Gambell;
''(4) Savoonga;
''(5) Tetlin; and
''(6) Venetie.

''(c) Funds authorized under this section may be used only for planning, development, and other purposes for which the corporations set forth in subsections (a) and (b) are organized under the Settlement Act [this chapter].

''(d) There is authorized to be appropriated to the Secretary for the purpose of this section a sum of $1,600,000 in fiscal year 1976.''

## § 1619. Attorney and consultant fees

**(a) Holding moneys in Fund for authorized payments**

The Secretary of the Treasury shall hold in the Alaska Native Fund, from the appropriation made pursuant to section 1605 of this title for the second fiscal year, moneys sufficient to make the payments authorized by this section.

**(b) Claims; submission**

A claim for attorney and consultant fees and out-of-pocket expenses may be submitted to the Chief Commissioner of the United States Court

[2] So in original. Probably should be ''section''.

of Claims for services rendered before December 18, 1971, to any Native tribe, band, group, village, or association in connection with:

(1) the preparation of this chapter and previously proposed Federal legislation to settle Native claims based on aboriginal title, and

(2) the actual prosecution pursuant to an authorized contract or a cause of action based upon a claim pending before any Federal or State Court or the Indians Claims Commission that is dismissed pursuant to this chapter.

**(c) Final date for filing of claims; form; information**

A claim under this section must be filed with the clerk of the Court of Claims within one year from December 18, 1971, and shall be in such form and contain such information as the Chief Commissioner shall prescribe. Claims not so filed shall be forever barred.

**(d) Rules for receipt, determination, and settlement of claims**

The Chief Commissioner or his delegate is authorized to receive, determine, and settle such claims in accordance with the following rules:

(1) No claim shall be allowed if the claimant has otherwise been reimbursed.

(2) The amount allowed for services shall be based on the nature of the service rendered, the time and labor required, the need for providing the service, whether the service was intended to be a voluntary public service or compensable, the existence of a bona fide attorney-client relationship with an identified client, and the relationship of the service rendered to the enactment of proposed legislation. The amount allowed shall not be controlled by any hourly charge customarily charged by the claimant.

(3) The amount allowed for out-of-pocket expenses shall not include office overhead, and shall be limited to expenses that were necessary, reasonable, unreimbursed and actually incurred.

(4) The amounts allowed for services rendered shall not exceed in the aggregate $2,000,000, of which not more than $100,000 shall be available for the payment of consultants' fees. If the approved claims exceed the aggregate amounts allowable, the Chief Commissioner shall authorize payment of the claims on a pro rata basis.

(5) Upon the filing of a claim, the clerk of the Court of Claims shall forward a copy of such claims to the individuals or entities on whose behalf services were rendered or fees and expenses were allegedly incurred, as shown by the pleadings, to the Attorney General of the United States, to the Attorney General of the State of Alaska, to the Secretary of the Interior, and to any other person who appears to have an interest in the claim, and shall give such persons ninety days within which to file an answer contesting the claim.

(6) The Chief Commissioner may designate a trial commissioner for any claim made under this section and a panel of three commissioners of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding commissioner of the panel.

(7) Proceedings in all claims shall be pursuant to rules and orders prescribed for the purpose by the Chief Commissioner who is hereby authorized and directed to require the application of the pertinent rules of practice of the Court of Claims insofar as feasible. Claimants may appear before a trial commissioner in person or by attorney, and may produce evidence and examine witnesses. In the discretion of the Chief Commissioner or his designate, hearings may be held in the localities where the claimants reside if convenience so demands.

(8) Each trial commissioner and each review panel shall have authority to do and perform any acts which may be necessary or proper for the efficient performance of their duties, and shall have the power of subpena, the power to order audit of books and records, and the power to administer oaths and affirmations. Any sanction authorized by the rules of practice of the Court of Claims, except contempt, may be imposed on any claimant, witness, or attorney by the trial commissioner, review panel, or Chief Commissioner. None of the rules, regulations, rulings, findings, or conclusions authorized by this section shall be subject to judicial review.

(9) The findings and conclusions of the trial commissioner shall be submitted by him, together with the record in the case, to the review panel of commissioners for review by it pursuant to such rules as may be provided for the purpose, which shall include provision for submitting the decision of the trial commissioner to the claimant and any party contesting the claim for consideration, exception, and argument before the panel. The panel, by majority vote, shall adopt or modify the findings or the conclusions of the trial commissioner.

(10) The Court of Claims is hereby authorized and directed, under such conditions as it may prescribe, to provide the facilities and services of the office of the clerk of the court for the filing, processing, hearing, and dispatch of claims made pursuant to this section and to include within its annual appropriations the costs thereof and other costs of administration, including (but without limitation to the items herein listed) the salaries and traveling expenses of its auditors and the commissioners serving as trial commissioners and panel members, mailing and service of process, necessary physical facilities, equipment, and supplies, and personnel (including secretaries, reporters, auditors, and law clerks).

**(e) Report to Congress; payment of claims; interest restriction**

The Chief Commissioner shall certify to the Secretary of the Treasury, and report to the Congress, the amount of each claim allowed and the name and address of the claimant. The Secretary of the Treasury shall pay to such person from the Alaska Native Fund the amounts certified. No award under this section shall bear interest.

**(f) Contract restriction; penalty**

(1) No remuneration on account of any services or expenses for which a claim is made or could be made pursuant to this section shall be received by any person for such services and expenses in addition to the amount paid in accordance with this section, and any contract or agreement to the contrary shall be void.

(2) Any person who receives, and any corporation or association official who pays, on account

of such services and expenses, any remuneration in addition to the amount allowed in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than twelve months, or both.

**(g) Claims for costs in performance of certain services: submission, form, information, reasonableness, pro rata reductions; report to Congress; payment of claims; interest restriction**

A claim for actual costs incurred in filing protests, preserving land claims, advancing land claims settlement legislation, and presenting testimony to the Congress on proposed Native land claims may be submitted to the Chief Commissioner of the Court of Claims by any bona fide association of Natives. The claim must be submitted within six months from December 18, 1971, and shall be in such form and contain such information as the Chief Commissioner shall prescribe. The Chief Commissioner shall allow such amounts as he determines are reasonable, but he shall allow no amount for attorney and consultant fees and expenses which shall be compensable solely under subsection (b) through (e) of this section. If approved claims under this subsection aggregate more than $600,000, each claim shall be reduced on a pro rata basis. The Chief Commissioner shall certify to the Secretary of the Treasury, and report to the Congress, the amount of each claim allowed and the name and address of the claimant. The Secretary of the Treasury shall pay to such claimant from the Alaska Native Fund the amount certified. No award under this subsection shall bear interest.

(Pub. L. 92–203, § 20, Dec. 18, 1971, 85 Stat. 710.)

REFERENCES IN TEXT

The United States Court of Claims, referred to in subsecs. (b), (c), (d)(5), (7), (8), (10), and (g), and the United States Court of Customs and Patent Appeals were merged effective Oct. 1, 1982, into a new United States Court of Appeals for the Federal Circuit by Pub. L. 97–164, Apr. 2, 1982, 96 Stat. 25, which also created a United States Claims Court [now United States Court of Federal Claims] that inherited the trial jurisdiction of the Court of Claims. See sections 48, 171 et seq., 791 et seq., and 1491 et seq. of Title 28, Judiciary and Judicial Procedure.

CHANGE OF NAME

''Chief Commissioner'' and ''trial commissioner'' of the Court of Claims redesignated ''chief of the trial division'' and ''trial judge'', respectively, by General Order No. 2 of 1973 of United States Court of Claims, issued August 1, 1973. Redesignation applicable in all proceedings other than Congressional references cases.

## § 1620. Taxation

**(a) Fund revenues exemption; investment income taxable**

Revenues originating from the Alaska Native Fund shall not be subject to any form of Federal, State, or local taxation at the time of receipt by a Regional Corporation, Village Corporation, or individual Native through dividend distributions (even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources) or in any other manner. This exemption shall not apply to income from the investment of such revenues.

**(b) Shares of stock exemption**

The receipt of shares of stock in the Regional or Village Corporations by or on behalf of any Native shall not be subject to any form of Federal, State or local taxation.

**(c) Land or land interests exemption; basis for sale or other disposition, adjustment; basis for interest in mine, well, other natural deposit, or block of timber, adjustment**

The receipt of land or any interest therein pursuant to this chapter or of cash in order to equalize the values of properties exchanged pursuant to section 1621(f) of this title shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of title 26, as amended: *Provided, however*, That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than the fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of title 26. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent).

**(d) Real property interests; exemption period for conveyance of interests not developed or leased or interests used solely for exploration, interests taxable; derivative revenues taxable; exchanges; simultaneous exchanges**

(1) Real property interests conveyed, pursuant to this chapter, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provided*, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds

derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 1613(h)(3) of this title in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this chapter and shall be exempt from taxation as if conveyed pursuant to this chapter, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to this subsection, the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.

**(e) Public lands status of real property interests exempt from real estate taxes for purposes of Federal highway and education laws; Federal fire protection services for real property interests without cost**

Real property interests conveyed pursuant to this chapter to a Native individual, Native group, corporation organized under section 1613(h)(3) of this title, or Village or Regional Corporation shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23, as amended and supplemented, for the purpose of the Johnson-O'Malley Act of April 16, 1934, as amended (25 U.S.C. 452), and for the purpose of Public Laws 815 and 874, 81st Congress (64 Stat. 967, 1100). So long as there are no substantial revenues from such lands they shall continue to receive wildland fire protection services from the United States at no cost.

**(f) Stocks of Regional and Village Corporations exempt from estate taxes; period of exemption**

Until January 1, 1992, stock of any Regional Corporation organized pursuant to section 1606 of this title, including the right to receive distributions under subsection 1606(j) of this title, and stock of any Village Corporation organized pursuant to section 1607 of this title shall not be includable in the gross estate of a decedent under sections 2031 and 2033, or any successor provisions, of title 26.

**(g) Resource information or analysis; professional or technical services**

In the case of any Native Corporation established pursuant to this chapter, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this chapter;

(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this chapter, including, but not limited to, services in connection with exploration on such lands for oil, gas, or other minerals; and

(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this chapter or to any subsidiary thereof.

This subsection shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) of this section all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 1611 and 1613 of this title shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

**(h) Date of incorporation as date of trade or business; ordinary and necessary expenses**

(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this chapter shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this chapter in connection with the selection or conveyance of lands pursuant to this chapter, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this chapter, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation.

**(i) Personal Holding Company Act exemption**

No Corporation created pursuant to this chapter shall be considered to be a personal holding

company within the meaning of section 542(a) of title 26 prior to January 1, 1992.

**(j) Shareholder homesites**

A real property interest distributed by a Native Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this chapter: *Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 1629c of this title: *Provided further*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Native Corporation deems appropriate: *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder.

(Pub. L. 92–203, § 21, Dec. 18, 1971, 85 Stat. 713; Pub. L. 94–204, § 13, Jan. 2, 1976, 89 Stat. 1154; Pub. L. 95–600, title V, § 541, Nov. 6, 1978, 92 Stat. 2887; Pub. L. 96–487, title IX, § 904, title XIV, §§ 1407–1409, Dec. 2, 1980, 94 Stat. 2434, 2495, 2496; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–241, § 12(b), Feb. 3, 1988, 101 Stat. 1810; Pub. L. 102–415, § 5, Oct. 14, 1992, 106 Stat. 2113.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsec. (d)(1), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Johnson-O'Malley Act of April 16, 1934, as amended (25 U.S.C. 452), referred to in subsec. (e), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, which is classified to sections 452 et seq., of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

Public Law 815, 81st Congress (64 Stat. 967), referred to in subsec. (e), is act Sept. 23, 1950, ch. 995, as amended generally by Pub. L. 85–620, title I, § 101, Aug. 12, 1958, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of Title 20, Education, prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Public Law 874, 81st Congress (64 Stat. 1100), referred to in subsec. (e), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, popularly known as the Educational Agencies Financial Aid Act, which was classified generally to chapter 13 (§ 236 et seq.) of Title 20, prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1992—Subsec. (j). Pub. L. 102–415 struck out "prior to December 18, 1991," after "A real property interest distributed" and substituted "*Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 1629c of this title: *Provided further*, That" for "*Provided*, That".

1988—Subsec. (a). Pub. L. 100–241, § 12(b)(1), inserted "(even if the Regional Corporation or Village Corporation distributing the dividend has not segregated revenue received from the Alaska Native Fund from revenue received from other sources)" after "distributions".

Subsec. (j). Pub. L. 100–241, § 12(b)(2), (3), substituted "Native Corporation" for "Village Corporation" in two places and "That if the shareholder receiving the homesite subdivides such homesite, he or she shall pay all Federal, State, and local taxes that would have been incurred but for this subsection together with simple interest at 6 per centum per annum calculated from the date of receipt of the homesite, including taxes or assessments for the provision of road access and water and sewage facilities by the conveying corporation or the shareholder." for "That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority."

1986—Subsecs. (c), (i). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1980—Subsec. (c). Pub. L. 96–487, § 1408, inserted provision requiring that fair value of such land or interest in land at time of receipt be adjusted as provided in section 1016 of title 26 and proviso defining the basis of any such land attributable to an interest in a mine, well, other natural deposit, or block of timber.

Subsec. (d). Pub. L. 96–487, § 904, designated existing provision as par. (1), substituted "Regional Corporation or corporation established pursuant to section 1613(h)(3) of this title" for "Regional Corporation", "third parties or which are used solely for the purposes of exploration shall" for "third parties shall", "from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation" for "after December 18, 1971", and "any portion of such interest" for "leased or developed real property" and inserted "which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed" after "laws of the State", and added par. (2).

Subsec. (e). Pub. L. 96–487, § 1409, substituted "Native Group, corporation organized under section 1613(h)(3) of this title, or Village" for "Native Group, or Village", "(64 Stat. 967, 1100). So long as there are no substantial" for "(64 Stat. 967, 1100), and so long as there are also no substantial", and "such lands they shall continue to receive wildland fire" for "such lands, continue to receive forest fire".

Subsec. (j). Pub. L. 96–487, § 1407, added subsec. (j).

1978—Subsecs. (g) to (i). Pub. L. 95–600 added subsecs. (g) to (i).

1976—Subsec. (f). Pub. L. 94–204 added subsec. (f).

## § 1621. Miscellaneous provisions

**(a) Contract restrictions; percentage fee; enforcement; liens, executions, or judgments**

None of the revenues granted by section 1605 of this title, and none of the lands granted by this chapter to the Regional and Village Corporation and to Native groups and individuals shall be subject to any contract which is based on a percentage fee of the value of all or some portion of the settlement granted by this chapter. Any such contract shall not be enforceable against any Native as defined by this chapter or any Re-

gional or Village Corporation and the revenues and lands granted by this chapter shall not be subject to lien, execution or judgment to fulfill such a contract.

**(b) Patents for homesteads, headquarters sites, trade and manufacturing sites, or small tract sites; use and occupancy protection**

The Secretary is directed to promptly issue patents to all persons who have made a lawful entry on the public lands in compliance with the public land laws for the purpose of gaining title to homesteads, headquarters sites, trade and manufacturing sites, or small tract sites (43 U.S.C. 682[1]), and who have fulfilled all requirements of the law prerequisite to obtaining a patent. Any person who has made a lawful entry prior to August 31, 1971, for any of the foregoing purposes shall be protected in his right of use and occupancy until all the requirements of law for a patent have been met even though the lands involved have been reserved or withdrawn in accordance with Public Land Order 4582, as amended, or the withdrawal provisions of this chapter: *Provided*, That occupancy must have been maintained in accordance with the appropriate public land law: *Provided further*, That any person who entered on public lands in violation of Public Land Order 4582, as amended, shall gain no rights.

**(c) Mining claims; possessory rights, protection**

(1) On any lands conveyed to Village and Regional Corporations, any person who prior to August 31, 1971, initiated a valid mining claim or location under the general mining laws and recorded notice of said location with the appropriate State or local office shall be protected in his possessory rights, if all requirements of the general mining laws are complied with, for a period of five years and may, if all requirements of the general mining laws are complied with, proceed to patent.

(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 1611 of this title or section 1613(h) of this title and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall—

(I) be considered part of the lands selected pursuant to sections 1611 of this title and 1613(h) of this title by the Village or Regional Corporation described in clause (i); and

(II) be eligible for conveyance pursuant to this chapter unless specifically identified and excluded from an initial selection application.

(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to October 14, 1992, from selections under section 1611 or section 1613(h) of this title shall be conveyed pursuant to this chapter.

(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this chapter.

(3) This section shall apply to lands conveyed by interim conveyance or patent to a Regional Corporation pursuant to this chapter which are made subject to a mining claim or claims located under the general mining laws, including lands conveyed prior to November 2, 1995. Effective on November 2, 1995, the Secretary, acting through the Bureau of Land Management and in a manner consistent with section 1613(g) of this title, shall transfer to the Regional Corporation administration of all mining claims determined to be entirely within lands conveyed to that corporation. Any person holding such mining claim or claims shall meet such requirements of the general mining laws and section 1744 of this title, except that any filings that would have been made with the Bureau of Land Management if the lands were within Federal ownership shall be timely made with the appropriate Regional Corporation. The validity of any such mining claim or claims may be contested by the Regional Corporation, in place of the United States. All contest proceedings and appeals by the mining claimants of adverse decisions made by the Regional Corporation shall be brought in Federal District Court for the District of Alaska. Neither the United States nor any Federal agency or official shall be named or joined as a party in such proceedings or appeals. All revenues from such mining claims received after November 2, 1995, shall be remitted to the Regional Corporation subject to distribution pursuant to section 1606(i) of this title, except that in the event that the mining claim or claims are not totally within the lands conveyed to the Regional Corporation, the Regional Corporation shall be entitled only to that proportion of revenues, other than administrative fees, reasonably allocated to the portion of the mining claim so conveyed. The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 1606(i) of this title.

**(d) Purchase restrictions for personnel inapplicable to chapter**

The provisions of section 11 of this title shall not apply to any land grants or other rights granted under this chapter.

[1] So in original. See References in Text note below.

**(e) National Wildlife Refuge System; replacement lands**

If land within the National Wildlife Refuge System is selected by a Village Corporation pursuant to the provisions of this chapter, the secretary shall add to the Refuge System other public lands in the State to replace the lands selected by the Village Corporation.

**(f) Land exchanges**

The Secretary, the Secretary of Defense, the Secretary of Agriculture, and the State of Alaska are authorized to exchange lands or interests therein, including Native selection rights, with the corporations organized by Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in this chapter, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency for the purpose of effecting land consolidations or to facilitate the management or development of the land, or for other public purposes. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged: *Provided*, That when the parties agree to an exchange and the appropriate Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

**(g) National Wildlife Refuge System lands subject of patents; Federal reservation of first refusal rights; provision in patents for continuing application of laws and regulations governing Refuge**

If a patent is issued to any Village Corporation for land in the National Wildlife Refuge System, the patent shall reserve to the United States the right of first refusal if the land is ever sold by the Village Corporation. Notwithstanding any other provision of this chapter, every patent issued by the Secretary pursuant to this chapter—which covers lands lying within the boundaries of a National Wildlife Refuge on December 18, 1971, shall contain a provision that such lands remain subject to the laws and regulations governing use and development of such Refuge.

**(h) Withdrawals of public lands; termination date**

(1) All withdrawals made under this chapter, except as otherwise provided in this subsection, shall terminate within four years of December 18, 1971: *Provided*, That any lands selected by Village or Regional Corporations or by a Native group under section 1611 of this title shall remain withdrawn until conveyed pursuant to section 1613 of this title.

(2) The withdrawal of lands made by section 1610(a)(2) and section 1615 of this title shall terminate three years from December 18, 1971.

(3) The provisions of this section shall not apply to any withdrawals made under section 1616 of this title.

(4) The Secretary is authorized to terminate any withdrawal made by or pursuant to this chapter whenever he determines that the withdrawal is no longer necessary to accomplish the purposes of this chapter.

**(i) Administration of withdrawn lands; contracting and other authority of Secretaries not impaired by withdrawal**

Prior to a conveyance pursuant to section 1613 of this title, lands withdrawn by or pursuant to sections 1610, 1613, and 1615 of this title shall be subject to administration by the Secretary, or by the Secretary of Agriculture in the case of National Forest lands, under applicable laws and regulations, and their authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal.

**(j) Interim conveyances and underselections**

(1) Where lands to be conveyed to a Native, Native Corporation, or Native group pursuant to this chapter as amended and supplemented have not been surveyed, the same may be conveyed by the issuance of an ''interim conveyance'' to the party entitled to the lands. Subject to valid existing rights and such conditions and reservations authorized by law as are imposed, the force and effect of such an interim conveyance shall be to convey to and vest in the recipient exactly the same right, title, and interest in and to the lands as the recipient would have received had he been issued a patent by the United States. Upon survey of lands covered by an interim conveyance a patent thereto shall be issued to the recipient. The boundaries of the lands as defined and conveyed by the interim conveyance shall not be altered but may then be redescribed, if need be, in reference to the plat of survey. The Secretary shall make appropriate adjustments to insure that the recipient receives his full entitlement. Where the term ''patent,'' or a derivative thereof, is used in this chapter unless the context precludes such construction, it shall be deemed to include ''interim conveyance,'' and the conveyances of land to Natives and Native Corporations provided for this chapter shall be as fully effectuated by the issuance of interim conveyances as by the issuance of patents.

(2) Where lands selected and conveyed, or to be conveyed to a Village Corporation are insufficient to fulfill the Corporation's entitlement under section 1611(b), 1613(a), 1615(b), or 1615(d) of this title, the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to section 1610(a)(1), 1610(a)(3), 1615(a), or 1615(d) of this title. Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to section 1616(d) of this title. Any subsequent selection by the Village Corporation shall be in the manner provided in this chapter for such original selections.

(3) In lieu of withdrawal under paragraph (2), land may be segregated from all other forms of appropriation for the purposes described in that paragraph if—

(A) the Secretary and the Village Corporation enter into an agreement identifying the land for selection; and

(B) the Village Corporation files an application for selection of the land.

**(k) National forest land patents; conditions**

Any patents to lands under this chapter which are located within the boundaries of a national forest shall contain such conditions as the Secretary deems necessary to assure that:

(1) the sale of any timber from such lands shall, for a period of five years, be subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture; and

(2) such lands are managed under the principle of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands for a period of twelve years.

**(*l*) Land selection limitation; proximity to home rule or first class city and Ketchikan**

Notwithstanding any provision of this chapter, no Village or Regional Corporation shall select lands which are within two miles from the boundary, as it exists on December 18, 1971, of any home rule or first class city (excluding boroughs) or which are within six miles from the boundary of Ketchikan.

**(m) Licenses held by Alaska Native regional corporations**

An Alaska Native regional corporation organized pursuant to this chapter, or an affiliate thereof, that holds a Federal Communications Commission license in the personal communications service as of the date of enactment of this section[2] and has either paid for such license in full or has complied with the payment schedules for such license shall be permitted to transfer or assign without penalty such license to any transferee or assignee. No economic penalties shall apply to any transfer or assignment authorized under this section. Any amounts owed to the United States for the initial grant of such licenses shall become immediately due and payable upon the consummation of any such transfer or assignment. Any application for such a transfer or assignment shall be deemed granted if not denied by the Commission within 90 days of the date on which it was initially filed. Any provision of law or regulation to the contrary is hereby amended.

(Pub. L. 92–203, § 22, Dec. 18, 1971, 85 Stat. 713; Pub. L. 94–204, § 17, Jan. 2, 1976, 89 Stat. 1156; Pub. L. 96–487, title XIV, § 1410, Dec. 2, 1980, 94 Stat. 2496; Pub. L. 102–415, § 14, Oct. 14, 1992, 106 Stat. 2121; Pub. L. 104–42, title I, § 102, Nov. 2, 1995, 109 Stat. 353; Pub. L. 105–333, § 7, Oct. 31, 1998, 112 Stat. 3133; Pub. L. 106–259, title VIII, § 8149, Aug. 9, 2000, 114 Stat. 706; Pub. L. 108–452, title II, § 208, Dec. 10, 2004, 118 Stat. 3586.)

[2] See References in Text note below.

REFERENCES IN TEXT

Section 682 of this title, referred to in subsec. (b), probably means section 682a of this title which was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787.

The Alaska National Interest Lands Conservation Act, referred to in subsec. (c)(2)(A)(i), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

Section 6(i) of the Alaska Statehood Act, referred to in subsec. (f), is section 6(i) of Pub. L. 85–508, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

The date of enactment of this section, referred to in subsec. (m), probably means the date of enactment of Pub. L. 106–259, which enacted subsec. (m) of this section and was approved Aug. 9, 2000.

AMENDMENTS

2004—Subsec. (j)(3). Pub. L. 108–452 added par. (3).

2000—Subsec. (m). Pub. L. 106–259, which directed the addition of subsec. (m) at the end of section 1621 of Public Law 92–204, was executed by adding subsec. (m) at the end of this section, which is section 22 of Pub. L. 92–203, to reflect the probable intent of Congress.

1998—Subsec. (c)(3). Pub. L. 105–333 substituted ''Regional Corporation'' for ''regional corporation'' wherever appearing and inserted at end ''The provisions of this section shall apply to Haida Corporation and the Haida Traditional Use Sites, which shall be treated as a Regional Corporation for the purposes of this paragraph, except that any revenues remitted to Haida Corporation under this section shall not be subject to distribution pursuant to section 1606(i) of this title.''

1995—Subsec. (c)(3). Pub. L. 104–42 added par. (3).

1992—Subsec. (c). Pub. L. 102–415 designated existing provisions as par. (1) and added par. (2).

1980—Subsec. (j). Pub. L. 96–487 substituted provision authorizing Secretary to convey lands by interim conveyance when the lands have not been surveyed, upon survey to issue a patent and redescribe the lands if necessary, and, where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement, to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation 90 days from receipt of notice to select from the lands withdrawn the land it desires to fulfill its entitlement for provision authorizing the Secretary, in any area of Alaska for which protraction diagrams do not exist, which does not conform to the United States Land Survey System, or which has not been adequately surveyed to permit selection, to take such actions as are necessary to accomplish the purposes of this chapter.

1976—Subsec. (f). Pub. L. 94–204 authorized State of Alaska to make direct exchanges of land between it and Native Corporations, authorized State to transfer mineral interests, notwithstanding section 6(i) of the Alaska Statehood Act, to Federal agencies in such exchanges, and authorized exchanges on a basis other than equal value, by agreement of the parties or if deemed in the public interest.

## § 1622. Annual reports to Congress until 1984; submission in 1985 of report of status of Natives, summary of actions taken, and recommendations

The Secretary shall submit to the Congress annual reports on implementation of this chapter. Such reports shall be filed by the Secretary annually until 1984. At the beginning of the first

session of Congress in 1985 the Secretary shall submit, through the President, a report of the status of the Natives and Native groups in Alaska, and a summary of actions taken under this chapter, together with such recommendations as may be appropriate.

(Pub. L. 92–203, § 23, Dec. 18, 1971, 85 Stat. 715.)

### § 1623. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 92–203, § 24, Dec. 18, 1971, 85 Stat. 715.)

### § 1624. Regulations; issuance; publication in Federal Register

The Secretary is authorized to issue and publish in the Federal Register, pursuant to subchapter II of chapter 5 of title 5, such regulations as may be necessary to carry out the purposes of this chapter.

(Pub. L. 92–203, § 25, Dec. 18, 1971, 85 Stat. 715.)

CODIFICATION

"Subchapter II of chapter 5 of title 5" substituted for "the Administrative Procedure Act" on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

### § 1625. Securities laws exemption

**(a) Laws; termination date of exempt status**

A Native Corporation shall be exempt from the provisions, as amended, of the Investment Company Act of 1940 (54 Stat. 789) [15 U.S.C. 80a–1 et seq.], the Securities Act of 1933 (48 Stat. 74) [15 U.S.C. 77a et seq.], and the Securities Exchange Act of 1934 (48 Stat. 881) [15 U.S.C. 78a et seq.] until the earlier of the day after—

(1) the date on which the corporation issues shares of stock other than Settlement Common Stock in a transaction where—

(A) the transaction or the shares are not otherwise exempt from Federal securities laws; and

(B) the shares are issued to persons or entities other than—

(i) individuals who held shares in the corporation on February 3, 1988;

(ii) Natives;

(iii) descendants of Natives;

(iv) individuals who have received shares of Settlement Common Stock by inheritance pursuant to section 1606(h)(2) of this title;

(v) Settlement Trusts; or

(vi) entities established for the sole benefit of Natives or descendants of Natives; or

(2) the date on which alienability restrictions are terminated; or

(3) the date on which the corporation files a registration statement with the Securities and Exchange Commission pursuant to either the Securities Act of 1933 [15 U.S.C. 77a et seq.] or the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.].

**(b) Status of Native Corporations after termination date**

No provision of this section shall be construed to require or imply that a Native Corporation shall, or shall not, be subject to provisions of the Acts listed in subsection (a) of this section after any of the dates described in subsection (a) of this section.

**(c) Annual report to shareholders; shareholders of record**

(1) A Native Corporation that, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.] shall annually prepare and transmit to its shareholders a report that contains substantially all the information required to be included in an annual report to shareholders by a corporation subject to that Act.

(2) For purposes of determining the applicability of the registration requirements of the Securities Exchange Act of 1934 on or after the date described in subsection (a) of this section, holders of Settlement Common Stock shall be excluded from the calculation of the number of shareholders of record pursuant to section 12(g) of that Act [15 U.S.C. 78*l*(g)].

**(d) Wholly owned subsidiaries; Settlement Trusts; voluntary registration as Investment Company**

(1) Notwithstanding any other provision of law, prior to January 1, 2001, the provisions of the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] shall not apply to any Native Corporation or any subsidiary of such corporation if such subsidiary is wholly owned (as that term is defined in the Investment Company Act of 1940) by the corporation and the corporation owns at least 95 per centum of the equity of the subsidiary.

(2) The Investment Company Act of 1940 shall not apply to any Settlement Trust.

(3) If, but for this section, a Native Corporation would qualify as an Investment Company under the Investment Company Act of 1940, it shall be entitled to voluntarily register pursuant to such Act and any such corporation which so registered shall thereafter comply with the provisions of such Act.

(Pub. L. 92–203, § 28, as added Pub. L. 94–204, § 3, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L. 100–241, § 14, Feb. 3, 1988, 101 Stat. 1811.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsecs. (a) and (d), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a–1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

The Securities Act of 1933 (48 Stat. 74), referred to in subsec. (a), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Securities Exchange Act of 1934, referred to in subsecs. (a) and (c), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

1988—Pub. L. 100–241 amended section generally. Prior to amendment, section read as follows: "Any corpora-

tion organized pursuant to this chapter shall be exempt from the provisions of the Investment Company Act of 1940 (54 Stat. 789) [15 U.S.C. 80a–1 et seq.], the Securities Act of 1933 (48 Stat. 74) [15 U.S.C. 77a et seq.], and the Securities Exchange Act of 1934 (48 Stat. 881), as amended [15 U.S.C. 78a et seq.], through December 31, 1991. Nothing in this section, however, shall be construed to mean that any such corporation shall or shall not, after such date, be subject to the provisions of such Acts. Any such corporation which, but for this section, would be subject to the provisions of the Securities Exchange Act of 1934 shall transmit to its stockholders each year a report containing substantially all the information required to be included in an annual report to stockholders by a corporation which is subject to the provisions of such Act.''

CONSTRUCTION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT WITH PUB. L. 94–204

Section 18 of Pub. L. 94–204 provided that: ''Except as specifically provided in this Act [enacting this section and sections 1626 and 1627 of this title, amending sections 1615, 1616, 1620 and 1621 of this title, and enacting provisions set out as notes under this section and sections 1604, 1605, 1611, 1613, and 1618 of this title], (i) the provisions of the Settlement Act [this chapter] are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.''

## § 1626. Relation to other programs

### (a) Continuing availability of otherwise available governmental programs

The payments and grants authorized under this chapter constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

### (b) Supplemental nutrition assistance program

Notwithstanding section 5(a) and any other provision of the Food and Nutrition Act of 2008 (78 Stat. 703), as amended [7 U.S.C. 2011 et seq.], in determining the eligibility of any household to participate in the supplemental nutrition assistance program, any compensation, remuneration, revenue, or other benefit received by any member of such household under this chapter shall be disregarded.

### (c) Eligibility for need-based Federal programs

In determining the eligibility of a household, an individual Native, or a descendant of a Native (as defined in section 1602(r) of this title) to—

(1) participate in the supplemental nutrition assistance program,

(2) receive aid, assistance, or benefits, based on need, under the Social Security Act [42 U.S.C. 301 et seq.], or

(3) receive financial assistance or benefits, based on need, under any other Federal program or federally-assisted program,

none of the following, received from a Native Corporation, shall be considered or taken into account as an asset or resource:

(A) cash (including cash dividends on stock received from a Native Corporation and on bonds received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

(B) stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock) or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 1606(h) of this title until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution;

(C) a partnership interest;

(D) land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

(E) an interest in a settlement trust.

### (d) Federal Indian programs

Notwithstanding any other provision of law, Alaska Natives shall remain eligible for all Federal Indian programs on the same basis as other Native Americans.

### (e) Minority and economically disadvantaged status

(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

(3) No provision of this subsection shall—

(A) preclude a Federal agency or instrumentality from applying standards for determining minority ownership (or control) less restrictive than those described in paragraphs (1) and (2), or

(B) supersede any such less restrictive standards in existence on February 3, 1988.

(4)(A) Congress confirms that Federal procurement programs for tribes and Alaska Native Corporations are enacted pursuant to its authority under Article I, Section 8 of the United States Constitution.

(B) Contracting with an entity defined in subsections[1] (e)(1) or (e)(2) of this section or section 1452(c) of title 25 shall be credited towards the satisfaction of a contractor's small or small disadvantaged business subcontracting goals under section 502 of P.L. 100–656, provided that where

[1] So in original. Probably should be ''subsection''.

lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit.

(C) Any entity that satisfies subsection (e)(1) or (e)(2) of this section that has been certified under section 637 of title 15 is a Disadvantaged Business Enterprise for the purposes of Public Law 105–178.

**(f) Omitted**

**(g) Civil Rights Act of 1964**

For the purposes of implementation of the Civil Rights Act of 1964 [42 U.S.C. 2000a et seq.], a Native Corporation and corporations, partnerships, joint ventures, trusts, or affiliates in which the Native Corporation owns not less than 25 per centum of the equity shall be within the class of entities excluded from the definition of ''employer'' by section 701(b)(1) of Public Law 88–352 (78 Stat. 253), as amended [42 U.S.C. 2000e(b)(1)], or successor statutes.

(Pub. L. 92–203, § 29, as added Pub. L. 94–204, § 4, Jan. 2, 1976, 89 Stat. 1147; amended Pub. L. 100–241, § 15, Feb. 3, 1988, 101 Stat. 1812; Pub. L. 102–415, §§ 10, 11, Oct. 14, 1992, 106 Stat. 2115; Pub. L. 105–333, § 5, Oct. 31, 1998, 112 Stat. 3131; Pub. L. 107–117, div. B, § 702, Jan. 10, 2002, 115 Stat. 2312; Pub. L. 107–206, title III, § 3003, Aug. 2, 2002, 116 Stat. 924; Pub. L. 110–234, title IV, § 4002(b)(1)(A), (C), (2)(GG), May 22, 2008, 122 Stat. 1095, 1096, 1098; Pub. L. 110–246, § 4(a), title IV, § 4002(b)(1)(A), (C), (2)(GG), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

REFERENCES IN TEXT

The Food and Nutrition Act of 2008, referred to in subsec. (b), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. Section 5(a) of the Act is classified to section 2014(a) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 502 of P.L. 100–656, referred to in subsec. (e)(4)(B), is section 502 of title V of Pub. L. 100–656, Nov. 15, 1988, 102 Stat. 3881, which amended section 644(g) of Title 15, Commerce and Trade.

Public Law 105–178, referred to in subsec. (e)(4)(C), is Pub. L. 105–178, June 9, 1998, 112 Stat. 107, as amended, known as the Transportation Equity Act for the 21st Century. The Disadvantaged Business Enterprise provisions of the Act were contained in section 1101(b), formerly set out as a note under section 101 of Title 23, Highways. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 101 of Title 23 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (g), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended, which is classified principally to subchapters II to IX (§ 2000a et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Subsec. (f) amended section 1702(3), (4) of Title 30, Mineral Lands and Mining, and provided for effective date of such amendment.

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–246, § 4002(b)(1)(C), (2)(GG), which directed substitution of ''Food and Nutrition Act of 2008'' for ''Food Stamp Act'', was executed by making the substitution for ''Food Stamp Act of 1964'' to reflect the probable intent of Congress.

Pub. L. 110–246, § 4002(b)(1)(A), (2)(GG), substituted ''supplemental nutrition assistance program'' for ''food stamp program''.

Subsec. (c)(1). Pub. L. 110–246, § 4002(b)(1)(A), (2)(GG), which directed substitution of ''supplemental nutrition assistance program'' for ''food stamp program'', was executed by making the substitution for ''Food Stamp Program'' to reflect the probable intent of Congress.

2002—Subsec. (e)(4). Pub. L. 107–117 added par. (4).

Subsec. (e)(4)(B). Pub. L. 107–206, § 3003(1), substituted ''subsections (e)(1) or (e)(2)'' for ''subsection (e)(2)'' and directed the substitution of ''small or small disadvantaged business subcontracting goals under section 502 of P.L. 100–656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit'' for ''obligations under section 7 of P.L. 87–305'', which was executed by making the substitution for ''obligations under section 7 of Public Law 87–305'', to reflect the probable intent of Congress.

Subsec. (e)(4)(C). Pub. L. 107–206, § 3003(2), substituted ''subsection (e)(1) or (e)(2)'' for ''subsection (e)(2)''.

1998—Subsec. (c)(3)(A). Pub. L. 105–333, § 5(1), inserted ''and on bonds received from a Native Corporation''.

Subsec. (c)(3)(B). Pub. L. 105–333, § 5(2), inserted before semicolon at end ''or bonds issued by a Native Corporation which bonds shall be subject to the protection of section 1606(h) of this title until voluntarily and expressly sold or pledged by the shareholder subsequent to the date of distribution''.

1992—Subsec. (e)(1), (2). Pub. L. 102–415, § 10, inserted ''and economically disadvantaged'' after ''minority''.

Subsec. (g). Pub. L. 102–415, § 11, substituted ''of entities excluded from the definition of 'employer' by'' for ''defined in'' and ''section 701(b)(1)'' for ''section 701(b)''.

1988—Subsecs. (c) to (g). Pub. L. 100–241 added subsecs. (c) to (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (C), (2)(GG) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

## § 1627. Merger of Native corporations

**(a) Applicability of State law**

Notwithstanding any provision of this chapter, any corporation created pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title within any of the twelve regions of Alaska, as established by section 1606(a) of this title, may, at any time, merge or consolidate, pursuant to the applicable provisions of the laws of the State of Alaska, with any other of such corporation or corporations created within or for the same region. Any corporations resulting from mergers or consolidations further may merge or consolidate with other such merged or consolidated corporations within the same region or with other of the corporations created in said region pursuant to section 1606(d), 1607(a), 1613(h)(2), or 1613(h)(3) of this title.

**(b) Terms and conditions of merger; rights of dissenting shareholders; rights and liabilities of successor corporation**

Such mergers or consolidations shall be on such terms and conditions as are approved by vote of the shareholders of the corporations participating therein, including, where appropriate, terms providing for the issuance of additional shares of Regional Corporation stock to persons already owning such stock, and may take place pursuant to votes of shareholders held either before or after January 2, 1976: *Provided*, That the rights accorded under Alaska law to dissenting shareholders in a merger or consolidation may not be exercised in any merger or consolidation pursuant to this chapter effected while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions..[1] Upon the effectiveness of any such mergers or consolidations the corporations resulting therefrom and the shareholders thereof shall succeed and be entitled to all the rights, privileges, and benefits of this chapter, including but not limited to the receipt of lands and moneys and exemptions from various forms of Federal, State, and local taxation, and shall be subject to all the restrictions and obligations of this chapter as are applicable to the corporations and shareholders which and who participated in said mergers or consolidations or as would have been applicable if the mergers or consolidations and transfers of rights and titles thereto had not taken place: *Provided*, That, where a Village Corporation organized pursuant to section 1618(b) of this title merges or consolidates with the Regional Corporation of the region in which such village is located or with another Village Corporation of that region, no provision of such merger or consolidation shall be construed as increasing or otherwise changing regional enrollments for purposes of distribution of the Alaska Native Fund; land selection eligibility; or revenue sharing pursuant to sections 1605(c), 1606(m), 1611(b), 1613(h)(8), and 1606(i) of this title.

**(c) Alteration or elimination of dividend rights**

Notwithstanding the provisions of section 1606(j) or (m) of this title, in any merger or consolidation in which the class of stockholders of a Regional Corporation who are not residents of any of the villages in the region are entitled under Alaska law to vote as a class, the terms of the merger or consolidation may provide for the alteration or elimination of the right of said class to receive dividends pursuant to said section 1606(j) or (m) of this title. In the event that such dividend right is not expressly altered or eliminated by the terms of the merger or consolidation, such class of stockholders shall continue to receive such dividends pursuant to section 1606(j) or (m) of this title as would have been applicable if the merger or consolidation had not taken place and all Village Corporations within the affected region continued to exist separately.

[1] So in original.

**(d) Approval of merger or consolidation by shareholders**

Notwithstanding any other provision of this section or of any other law, no corporation referred to in this section may merger or consolidate with any other such corporations unless that corporation's shareholders have approved such merger or consolidation.

**(e) Conveyance of right to withhold consent to mineral exploration, development, etc., as part of merger or consolidation**

The plan of merger or consolidation shall provide that the right of any affected Village Corporation pursuant to section 1613(f) of this title to withhold consent to mineral exploration, development, or removal within the boundaries of the Native village shall be conveyed, as part of the merger or consolidation, to a separate entity composed of the Native residents of such Native village.

(Pub. L. 92–203, § 30, as added Pub. L. 94–204, § 6, Jan. 2, 1976, 89 Stat. 1148; amended Pub. L. 100–241, § 12(c), Feb. 3, 1988, 101 Stat. 1810.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–241 substituted ''while the Settlement Common Stock of all corporations subject to merger or consolidation remains subject to alienability restrictions.'' for ''prior to December 19, 1991''.

**§ 1628. Assignments by Regional Corporations of rights to receive payments from Fund**

**(a) Recognition by Secretary; scope of recognition**

Notwithstanding the provision of section 3727 of title 31, the Secretary is authorized to recognize validly executed assignments made by Regional Corporations of their rights to receive payments from the Alaska Native Fund. Such assignments shall only be recognized to the extent that the Regional Corporation involved is not required to distribute funds pursuant to subsection (j) or (m) of section 1606 of this title.

**(b) Nonrecognition by Secretary**

The Secretary shall not recognize any assignment under this section which does not provide that the United States reserves the right to assert against the assignee and successors of the assignee, any setoff or counterclaim which the United States has against the assignor Corporation.

**(c) Claims against Secretary by stockholders of Regional or Village Corporation for recognition of assignment**

No stockholder of any Regional or Village Corporation shall have any claim against the Secretary or the United States as the result of any assignment duly recognized by the Secretary pursuant to this section.

(Pub. L. 92–203, § 31, as added Pub. L. 95–178, § 4, Nov. 15, 1977, 91 Stat. 1370.)

CODIFICATION

In subsec. (a), ''section 3727 of title 31'' substituted for ''section 3477 of the Revised Statutes, as amended (31 U.S.C. 203)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## § 1629. Cape Krusenstern National Monument land exchange between United States and NANA Regional Corporation, Inc.

### (a) Definitions

For purposes of this section the following terms shall have the following meanings:

(1) the term ''The Agreement'' or ''Agreement'' means the agreement entitled ''Terms and Conditions Governing Legislative Land Consolidation and Exchange between NANA Regional Corporation, Inc., and the United States'' executed by the Secretary of the Interior and the President of NANA Regional Corporation, Inc., on January 31 and January 24, 1985, respectively.

(2) the term ''transportation system'' means the Red Dog Mine Transportation System described in Exhibit B of the Agreement.

(3) the term ''NANA'' means NANA Regional Corporation, Inc., a corporation formed for the Natives of Northwest Alaska pursuant to the provisions of this chapter.

### (b) Conveyances of lands and interests in lands

Except as otherwise provided by this section, the Secretary shall convey to NANA, in accordance with the terms and conditions set forth in the Agreement, lands and interests in lands specified in the Agreement in exchange for lands and interests in lands of NANA, specified in the Agreement, upon fulfillment by NANA of its obligations under the Agreement: *Provided, however*, That this modified exchange is accepted by NANA within 60 days of September 25, 1985.

### (c) Exchange limited to designated lands

(1) The Secretary shall convey to NANA, pursuant to the provisions of paragraph A(1) of the Agreement, the right, title and interest of the United States only in and to those lands designated as ''Amended A(1) Lands'' on the map entitled ''Modified Cape Krusenstern Land Exchange'', dated July 18, 1985. The charges to be made pursuant to paragraphs B(1) and D(27) of the Agreement against NANA's land entitlements under this chapter shall be reduced by an amount equivalent to the difference between that acreage conveyed pursuant to this subsection and the acreage that would have been conveyed to NANA pursuant to paragraph A(1) of the Agreement but for this subsection.

(2) Notwithstanding the provisions of paragraph A(3) of the Agreement, the Secretary shall not convey to NANA any right, title and interest of the United States in the lands described in such paragraph A(3) and the Secretary shall make no charge to NANA's remaining entitlements under this chapter with respect to such lands. Such lands shall be retained in Federal ownership but shall be subject to the easement described in Exhibit D to the Agreement as if the lands had been conveyed to NANA pursuant to paragraph A(3) of the Agreement.

### (d) Easement in and to transportation system lands

(1) There is hereby granted to NANA an easement in and to the lands designated as ''Transportation System Lands'' on the map entitled ''Modified Cape Krusenstern Land Exchange'', dated July 18, 1985, for use in the construction, operation, maintenance, expansion and reclamation of the transportation system. Use of the easement for such purposes shall be subject only to the terms and conditions governing the construction, operation, maintenance, expansion and reclamation of the transportation system, as set forth in Exhibit B to the Agreement.

(2) The easement granted pursuant to this section shall be for a term of 100 years. The easement shall terminate prior to the 100-year term:

(i) if it is relinquished to the United States; or

(ii) if construction of the transportation system has not commenced within 20 years of September 25, 1985. Computation of the 20-year period shall exclude periods when construction could not commence because of force majeure, act of God or order of a court; or

(iii) upon completion of reclamation pursuant to the reclamation plan required by Exhibit B to the Agreement.

(3) Within 90 days after September 25, 1985, the Secretary shall execute the necessary documents evidencing the grant to NANA of the easement granted by this section.

(4) Except as regards the trail easement described in Exhibit D to the Agreement (to which the ''Transportation System Lands'' shall be subject as if such lands had been conveyed to NANA pursuant to paragraph A(1) of the Agreement), access to the lands subject to the easement granted by this section shall be subject to such limitations, restrictions or conditions as may be imposed by NANA, its successors and assigns, but NANA and its successors and assigns shall permit representatives of the Secretary such access as the Secretary determines is necessary for the monitoring required by this section.

### (e) Compliance with local laws

The easement granted by this section makes available land for the transportation system, and is intended to be sufficient to permit NANA to comply with the laws of the State of Alaska which may be necessary to secure financing of the construction of the transportation system and the operation, maintenance or expansion thereof by the State of Alaska or by the Alaska Industrial Development Authority.

### (f) Reconveyance of easement by NANA

The easement granted to NANA by this section may be reconveyed by NANA, but after any such reconveyance the terms and conditions specified in Exhibit B of the Agreement shall continue to apply in full to the easement.

### (g) Construction materials taken from borrow sites within easement

NANA is hereby granted the right to use, develop and sell sand, gravel and related construction materials from borrow sites located within the easement granted pursuant to this section as required for the construction, operation, maintenance, expansion and reclamation of the transportation system, subject to the terms and conditions specified in Exhibit B of the Agreement.

### (h) Agreement as governing use of lands

(1) The construction, operation, maintenance, expansion and reclamation of any portion of the

transportation system on any of the lands subject to the easement granted to NANA by this section shall be governed solely by the terms and conditions of the Agreement, including the procedural and substantive provisions of Exhibit B to the Agreement, as if the lands covered by the easement granted to NANA by this section had been conveyed to NANA pursuant to paragraph A(1) of the Agreement.

(2) The Secretary of the Interior, acting through the National Park Service, shall monitor the construction, operation, maintenance, expansion and reclamation of the transportation system, as provided in the Agreement. Any complaint by any person or entity that any aspect of the construction, operation, maintenance, expansion or reclamation of the portion of the transportation system on the lands subject to the easement granted to NANA by this section is not in accordance with the terms and conditions specified in the Agreement shall be made to the Secretary in writing. The Secretary shall review any such complaint and shall provide to NANA or its successors or assigns and to the complainant a decision in writing on the complaint within 90 days of receipt thereof. If the Secretary determines that the activity made the subject of a complaint is not in accordance with the terms specified in the Agreement, and NANA or its successors or assigns disagrees with that determination, the dispute shall be resolved according to the procedures established in Exhibit B to the Agreement.

**(i) Use of construction materials from other sites**

The Secretary shall make available to NANA and its successors and assigns the right to use sand, gravel and related construction materials located in Sections 23, 24, 25, 26, 35 and 36 of Township 26 North, Range 24 West, Kateel River Meridian, Alaska, if the Secretary determines either (1) that use of such sand, gravel or related construction material is necessary because there is no other sand, gravel or related construction material reasonably available for the construction, operation, maintenance, expansion or reclamation of the transportation system; or (2) that use of such sand, gravel or related construction material is necessary in order to construct, operate, maintain, expand, or reclaim the transportation system in an environmentally sound manner, consistent with the requirements of Exhibit B of the Agreement. The right to use such sand, gravel and related construction material shall be subject to the terms and conditions of paragraph A of Exhibit B of the Agreement and such other reasonable terms and conditions as the Secretary may prescribe.

**(j) Congressional consultation as prerequisite to amendment of Agreement**

Notwithstanding paragraph D(23) of the Agreement, the Secretary shall not agree to any amendment to the Agreement without first consulting with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and shall transmit copies of the text of any amendment to the Agreement to those Committees at the time of his agreeing to any such amendment.

(Pub. L. 92–203, § 34, as added Pub. L. 99–96, § 1, Sept. 25, 1985, 99 Stat. 460; amended Pub. L. 103–437, § 16(a)(5), Nov. 2, 1994, 108 Stat. 4594.)

AMENDMENTS

1994—Subsec. (j). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

**§ 1629a. Relinquishment by NANA Regional Corporation, Inc., of lands compact and contiguous to public lands in Cape Krusenstern National Monument**

**(a) Terms and conditions**

The terms and conditions of this section are solely applicable to the lands described in paragraph A(1) of the Agreement, which is defined by section 1629(a)(1) of this title and modified by section 1629 of this title, and shall not affect the relinquishment by NANA described in section B(1) of such Agreement.

**(b) Conveyance of lands to United States**

NANA Regional Corporation, Inc. (''NANA''), may convey by quit-claim deed to the United States all of its interest in the surface and subsurface estate in any lands described in subsection (a) of this section: *Provided, however*, That NANA can relinquish only lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands to be relinquished have been disturbed by NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA executes a quit-claim deed pursuant to this section, it shall be entitled to designate and have conveyed to it any lands outside the boundaries of the Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371, et seq.), covered by any of its pending selection applications filed under the entitlement provisions of either section 1611(b), 1611(c) or 1613(h)(8) of this title. Lands conveyed to NANA pursuant to this subsection shall be of a like estate and equal in acreage to that conveyed by NANA to the United States. The lands conveyed to NANA pursuant to this subsection shall be in exchange for the lands conveyed by NANA to the United States and there shall be no change in the charges previously made to NANA's land entitlements with respect to the lands conveyed by NANA to the United States. Lands received by NANA pursuant to this subsection are Settlement Act lands.

**(c) Relinquishment of interests under filed selection applications**

NANA may relinquish any interest it has under selection applications filed pursuant to this chapter in the surface and subsurface estate in lands described in subsection (a) of this section by formally withdrawing such application pursuant to this section: *Provided, however*, That NANA can relinquish only interests in lands that are compact and contiguous to other public lands within the Krusenstern National Monument and, if the lands have been disturbed by

NANA, the Secretary must first determine that such disturbance has not rendered the lands incompatible with Monument values. Whenever NANA formally withdraws a selection application pursuant to this section, it shall be entitled to designate and have conveyed to it lands outside the boundaries of Cape Krusenstern National Monument and any other conservation system unit, as established and defined by the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371, et seq.) pursuant to any of its pending selection applications filed under either section 1611(b), 1611(c) or 1613(h)(8) of this title. Lands conveyed to NANA under this subsection shall be of a like estate and equal in acreage to the interest which NANA relinquished, and when the lands are conveyed to NANA, the conveyance shall be charged against the same entitlement of NANA as if the lands had been conveyed pursuant to the relinquished selection applications. Lands received by NANA pursuant to this subsection are Settlement Act lands.

**(d) Termination date**

The provisions of this section shall remain in effect only until December 18, 1991.

**(e) Effect on NANA's selection rights or entitlement to lands**

Nothing in this section shall be deemed to alter or amend in any way NANA's selection rights or to increase or diminish NANA's total entitlement to lands pursuant to this chapter.

(Pub. L. 92–203, § 35, as added Pub. L. 99–96, § 1, Sept. 25, 1985, 99 Stat. 462.)

REFERENCES IN TEXT

The Alaska National Interest Lands Conservation Act, referred to in subsecs. (b) and (c), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

## § 1629b. Procedures for considering amendments and resolutions

**(a) Coverage**

Notwithstanding any provision of the articles of incorporation and bylaws of a Native Corporation or of the laws of the State, except those related to proxy statements and solicitations that are not inconsistent with this section—

(1) an amendment to the articles of incorporation of a Native Corporation authorized by subsections (g) and (h) of section 1606 of this title, subsection (d)(1)(B) of this section, or section 1629c of this title;

(2) a resolution authorized by section 1629d(a)(2) of this title;

(3) a resolution to establish a Settlement Trust; or

(4) a resolution to convey all or substantially all of the assets of a Native Corporation to a Settlement Trust pursuant to section 1629e(a)(1) of this title;

shall be considered in accordance with the provisions of this section.

**(b) Basic procedure**

(1) An amendment or resolution described in subsection (a) of this section may be approved by the board of directors of a Native Corporation in accordance with its bylaws. If the board approves the amendment or resolution, it shall direct that the amendment or resolution be submitted to a vote of the shareholders at the next annual meeting or at a special meeting (if the board, at its discretion, schedules such special meeting). One or more such amendments or resolutions may be submitted to the shareholders and voted upon at one meeting.

(2)(A) A written notice (including a proxy statement if required under applicable law), setting forth the amendment or resolution approved pursuant to paragraph (1) (and, at the discretion of the board, a summary of the changes to be effected) together with any amendment or resolution submitted pursuant to subsection (c) of this section and the statements described therein shall be sent, not less than fifty days nor more than sixty days prior to the meeting of the shareholders, by first-class mail or hand-delivered to each shareholder of record entitled to vote at his or her address as it appears in the records of the Native Corporation. The corporation may also communicate with its shareholders at any time and in any manner authorized by the laws of the State.

(B) The board of directors may, but shall not be required to, appraise or otherwise determine the value of—

(i) land conveyed to the corporation pursuant to section 1613(h)(1) of this title or any other land used as a cemetery;

(ii) the surface estate of land that is both—

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title; and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16); or

(iii) land or interest in land which the board of directors believes to be only of speculative value;

in connection with any communication made to the shareholders pursuant to this subsection.

(C) If the board of directors determines, for quorum purposes or otherwise, that a previously-noticed meeting must be postponed or adjourned, it may, by giving notice to the shareholders, set a new date for such meeting not more than forty-five days later than the original date without sending the shareholders a new written notice (or a new summary of changes to be effected). If the new date is more than forty-five days later than the original date, however, a new written notice (and a new summary of changes to be effected if such a summary was originally sent pursuant to subparagraph (A)), shall be sent or delivered to shareholders not less than thirty days nor more than forty-five days prior to the new date.

**(c) Shareholder petitions**

(1)(A) With respect to an amendment authorized by section 1606(g)(1)(B) of this title or section 1629c(b) of this title or an amendment authorizing the issuance of stock subject to the restrictions provided by section 1606(g)(2)(B)(iii) of this title, the holders of shares representing at least 25 per centum of the total voting power of a Native Corporation may petition the board

of directors to submit such amendment to a vote of the shareholders in accordance with the provisions of this section.

(B) The requirements of the laws of the State relating to the solicitation of proxies shall govern solicitation of signatures for a petition described in subparagraph (A) except that the requirements of Federal law shall govern the solicitation of signatures for a petition that is to be submitted to a Native Corporation which at the time of such submission has issued a class of equity securities registered pursuant to the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]. If a petition meets the applicable solicitation requirements and—

(i) the board agrees with such petition, the board shall submit the amendment and either the proponents' statement or its own statement in support of the amendment to the shareholders for a vote, or

(ii) the board disagrees with the petition for any reason, the board shall submit the amendment and the proponents' statement to the shareholders for a vote and may, at its discretion, submit an opposing statement or an alternative amendment.

(2) Paragraph (1) shall not apply to a Native Corporation that on or before the date one year after February 3, 1988, elects application of section 1629c(d) of this title in lieu of section 1629c(b) of this title. Until December 18, 1991, paragraph (1) shall not apply to a Native Corporation that elects application of section 1629c(c) of this title in lieu of section 1629c(b) of this title. Insofar as they are not inconsistent with this section, the laws of the State shall govern any shareholder right of petition for Native Corporations.

**(d) Voting standards**

(1) Except as otherwise set forth in subsection (d)(3) of this section, an amendment or resolution described in subsection (a) of this section shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

(A) a majority of the total voting power of the corporation, or

(B) a level of the total voting power of the corporation greater than a majority (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

(2) A Native Corporation in amending its articles of incorporation pursuant to section 1606(g)(2) of this title to authorize the issuance of a new class or series of stock may provide that a majority (or more than a majority) of the shares of such class or series must vote in favor of an amendment or resolution described in subsection (a) of this section (other than an amendment authorized by section 1629c of this title) in order for such amendment or resolution to be approved.

(3) A resolution described in subsection (a)(3) or an amendment to articles of incorporation under section 1606(g)(1)(B) of this title shall be considered to be approved by the shareholders of a Native Corporation if it receives the affirmative vote of shares representing—

(A) a majority of the shares present or represented by proxy at the meeting relating to the resolution or amendment to articles of incorporation; or

(B) an amount of shares greater than a majority of the shares present or represented by proxy at the meeting relating to the resolution or amendment to articles of incorporation (but not greater than two-thirds of the total voting power of the corporation) if the corporation establishes such a level by an amendment to its articles of incorporation.

**(e) Voting power**

For the purposes of this section, the determination of total voting power of a Native Corporation shall include all outstanding shares of stock that carry voting rights except shares that are not permitted to vote on the amendment or resolution in question because of restrictions in the articles of incorporation of the corporation.

**(f) Substantially all of the assets**

For purposes of this section and section 1629e of this title, a Native Corporation shall be considered to be transferring all or substantially all of its assets to a Settlement Trust only if such assets represent two-thirds or more of the fair market value of the Native Corporation's total assets.

(Pub. L. 92–203, § 36, as added Pub. L. 100–241, § 7, Feb. 3, 1988, 101 Stat. 1795; amended Pub. L. 108–7, div. F, title III, § 337(a), Feb. 20, 2003, 117 Stat. 278; Pub. L. 109–179, § 1, Mar. 13, 2006, 120 Stat. 283; Pub. L. 109–221, title I, § 101(a), May 12, 2006, 120 Stat. 336.)

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsec. (c)(1)(B), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

2006—Pub. L. 109–221, § 101(a)(1), made technical corrections to the directory language of Pub. L. 108–7, § 337(a). See 2003 Amendment notes below.

Subsec. (d). Pub. L. 109–179, § 1, redesignated par. (d)(3) as par. (3), and in that par. as so redesignated, substituted "or an amendment to articles of incorporation under section 1606(g)(1)(B) of this title" for "of this section" in introductory provisions, "the resolution or amendment to articles of incorporation; or" for "such resolution, or" in subpar. (A), and "the resolution or amendment to articles of incorporation" for "such resolution" in subpar. (B).

Subsec. (f). Pub. L. 109–221, § 101(a)(2), made technical amendment to reference in original act which appears in text as reference to section 1629e of this title.

2003—Subsec. (d)(1). Pub. L. 108–7, § 337(a)(1), as amended by Pub. L. 109–221, § 101(a)(1)(A), substituted "Except as otherwise set forth in subsection (d)(3) of this section, an" for "An".

Subsec. (d)(d)(3). Pub. L. 108–7, § 337(a)(2), as amended by Pub. L. 109–221, § 101(a)(1)(A), (B), added par. (d)(3) to subsec. (d).

Subsec. (f). Pub. L. 108–7, § 337(a)(3), as amended by Pub. L. 109–221, § 101(a)(1)(A), (C), added subsec. (f).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–221, title I, § 101(c), May 12, 2006, 120 Stat. 337, provided that: "The amendments made by this sec-

tion [amending this section and section 1629e of this title] take effect on February 20, 2003.''

### § 1629c. Duration of alienability restrictions

#### (a) General rule

Alienability restrictions shall continue until terminated in accordance with the procedures established by this section. No such termination shall take effect until after July 16, 1993: *Provided*, *however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition.

#### (b) Opt-out procedure

(1)(A) A Native Corporation may amend its articles of incorporation to terminate alienability restrictions in accordance with this subsection. Only one amendment to terminate alienability restrictions shall be considered and voted on prior to December 18, 1991. Rejection of the amendment shall not preclude consideration prior to December 18, 1991, of subsequent amendments to terminate alienability restrictions.

(B) If an amendment to terminate alienability restrictions is considered, voted on, and rejected prior to December 18, 1991, then subsequent amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not earlier than five years after the rejection of the most recently rejected amendment to terminate restrictions; or

(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not earlier than two years after the rejection of the most recently rejected amendment to terminate restrictions.

(C) If no amendment to terminate alienability restrictions is considered and voted on prior to December 18, 1991, then amendments to terminate alienability restrictions after December 18, 1991, shall be considered and voted on—

(i) in the case of an amendment submitted by the board of directors of the corporation on its own motion, not more than once every five years; or

(ii) in the case of an amendment submitted by the board of directors of the corporation pursuant to a shareholder petition, not more than once every two years.

(2) An amendment authorized by paragraph (1) shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which alienability restrictions shall terminate.

(3) Dissenters rights may be granted by the corporation in connection with the rejection of an amendment to terminate alienability restrictions in accordance with section 1629d of this title. Once dissenters rights have been so granted, they shall not be granted again in connection with subsequent amendments to terminate alienability restrictions.

#### (c) Recapitalization procedure

(1)(A) On or prior to December 18, 1991, a Native Corporation may amend its articles of incorporation to implement a recapitalization plan in accordance with this subsection. Rejection of an amendment or amendments to implement a recapitalization plan shall not preclude consideration prior to December 18, 1991, of a subsequent amendment or amendments to implement such a plan. Subsequent amendment or amendments shall be considered and voted on not earlier than one year after the date on which the most recent previous recapitalization plan was rejected. No recapitalization plan shall provide for the termination of alienability restrictions prior to December 18, 1991.

(B) An amendment or amendments submitted pursuant to subparagraph (A) (and any subsequent amendment submitted pursuant to subparagraph (C)) may provide for the maintenance or extension of alienability restrictions for—

(i) an indefinite period of time;

(ii) a specified period of time not to exceed fifty years; or

(iii) a period of time that shall end upon the occurrence of a specified event.

(C) If an amendment or amendments approved pursuant to subparagraph (A) or this subparagraph maintains or extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of maintenance or extension then in force.

(D) The board of directors may ask the shareholders to approve en bloc pursuant to a single vote a series of amendments (including an amendment to authorize the issuance of stock pursuant to section 1606(g) of this title) to implement a recapitalization plan that includes a provision maintaining alienability restrictions.

(2)(A) If an amendment to the articles of incorporation of a Native Corporation maintaining or extending alienability restrictions for a specified period of time is approved pursuant to paragraph (1), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (1)(C).

(B)(i) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (1)(B) to maintain or extend alienability restrictions for an indefinite period may later amend its articles to terminate such restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(ii) Rejection of an amendment described in clause (i) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(3) If a recapitalization plan approved pursuant to paragraph (1) distributes voting alienable common stock to each holder of shares of Set-

tlement Common Stock (issued pursuant to section 1606(g)(1)(A) of this title) that carries aggregate dividend and liquidation rights equivalent to those carried by such shares of Settlement Common Stock (except for rights to distributions made pursuant to sections 1606(j) and 1606(m) of this title) upon completion of the recapitalization plan, then such holder shall have no right under section 1629d of this title and any other provision of law to further compensation from the corporation with respect to action taken pursuant to this subsection.

**(d) Opt-in procedure**

(1)(A) Subsection (b) of this section shall not apply to a Native Corporation whose board of directors approves, no later than one year after February 3, 1988, a resolution electing the application of this subsection and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii).

(B) This subsection shall not apply to Village Corporations, Urban Corporations, and Group Corporations located outside of the Bristol Bay and Aleut regions.

(2)(A) Alienability restrictions imposed on Settlement Common Stock issued by a Native Corporation electing application of this subsection shall terminate on December 18, 1991, unless extended in accordance with the provisions of this subsection.

(B)(i) The board of directors of a Native Corporation electing application of this subsection shall, at least once prior to January 1, 1991, approve, and submit to a vote of the shareholders, an amendment to the articles of incorporation of the corporation to extend alienability restrictions. If the amendment is not approved by the shareholders, the board of directors may submit another such amendment to the shareholders once or more a year until December 18, 1991.

(ii) In lieu of approving the amendment to the articles of incorporation described in clause (i) and submitting such amendment to a vote of the shareholders, at any time prior to January 1, 1991, the board of directors of a Native Corporation that has approved a resolution described in paragraph (1)(A) may approve a new resolution rescinding that prior resolution. Upon approval of the new resolution rescinding a resolution described in paragraph (1)(A), the latter resolution shall be void and alienability restrictions on the Settlement Common Stock of such corporation shall continue subsequent to December 18, 1991, until such time as the alienability restrictions are terminated pursuant to the procedure described in subsection (b) of this section.

(iii) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of any provision in clause (ii) shall be barred unless it is filed within one year after the date of the vote of the board of directors approving a resolution to rescind a prior opt-in election under paragraph (1)(A). Any such civil action shall be filed in accordance with section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987 (101 Stat. 1813–1814).

(C) An amendment submitted pursuant to subparagraph (B) and any amendment submitted pursuant to subparagraph (D) may provide for an extension of alienability restrictions for—

(i) an indefinite period of time, or

(ii) a specified period of time of not less than one year and not more than fifty years.

(D) If an amendment approved by the shareholders of a Native Corporation pursuant to subparagraph (B) or this subparagraph extends alienability restrictions for a specified period of time, termination of the restrictions at the close of such period may be postponed if a further amendment to the articles of incorporation of the corporation is approved to extend the restrictions. There shall be no limit on the number of such amendments that can be approved. Such amendments shall not be effective to extend the restrictions unless approved prior to the expiration of the period of extension then in force.

(3)(A) If an amendment to the articles of incorporation of a Native Corporation extending alienability restrictions for a specified period of time is approved pursuant to paragraph (2), the restrictions shall automatically terminate at the end of such period unless the restrictions are extended in accordance with the provisions of paragraph (2)(D).

(B) If the board of directors of a Native Corporation electing application of this subsection does not submit for a shareholder vote an amendment to the articles of incorporation of the corporation in accordance with paragraph (2)(B), or if the amendment submitted does not comply with paragraph (2)(C), alienability restrictions shall not terminate and shall instead remain in effect until such time as a court of competent jurisdiction, upon petition of one or more shareholders of the corporation, orders that a shareholder vote be taken on an amendment which complies with paragraph (2)(C) and such vote is conducted. Following the vote, the status of alienability restrictions shall be determined in accordance with the other provisions of this subsection and the amendment, if approved.

(4)(A) A Native Corporation that approves an amendment to its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions for an indefinite period of time may later amend its articles of incorporation to terminate the restrictions. Such amendment shall specify the time of termination, either by establishing a date certain or by describing the specific event upon which the restrictions shall terminate.

(B) The rejection of an amendment described in subparagraph (A) by the shareholders shall not preclude consideration of subsequent amendments to terminate alienability restrictions.

(5)(A) If a Native Corporation amends its articles of incorporation pursuant to paragraph (2) to extend alienability restrictions, a shareholder who—

(i) voted against such amendment, and

(ii) desires to relinquish his or her Settlement Common Stock in exchange for the stock or payment authorized by the board of directors pursuant to subparagraph (B),

shall notify the Corporation within ninety days of the date of the vote of the shareholders on the amendment of his or her desire.

(B) Within one hundred and twenty days after the date of the vote described in subparagraph

(A), the board of directors shall approve a resolution to provide that each shareholder who has notified the corporation pursuant to subparagraph (A) shall receive either—

(i) alienable common stock in exchange for his or her Settlement Common Stock pursuant to paragraph (6), or

(ii) an opportunity to request payment for his or her Settlement Common Stock pursuant to section 1629d(a)(1)(B) of this title.

(C) This paragraph shall apply only to the first extension of alienability restrictions approved by the shareholders. No dissenters rights of any sort shall be permitted in connection with subsequent extensions of such restrictions.

(6)(A) If the board of directors of a Native Corporation approves a resolution providing for the issuance of alienable common stock pursuant to paragraph (5)(B), then on December 18, 1991, or sixty days after the approval of the resolution, whichever later occurs, the Settlement Common Stock of each shareholder who has notified the corporation pursuant to paragraph (5)(A) shall be deemed canceled, and shares of alienable common stock of the appropriate class shall be issued to such shareholder, share for share, subject only to subparagraph (B) and to such restrictions consistent with this chapter as may be provided by the articles of incorporation of the corporation or in agreements between the corporation and individual shareholders.

(B)(i) Alienable common stock issued in exchange for Settlement Common Stock issued subject to the restriction authorized by section 1606(g)(1)(B)(iii) of this title shall bear a legend indicating that the stock will eventually be canceled in accordance with the requirements of that section.

(ii) Alienable common stock issued in exchange for a class of Settlement Common Stock carrying greater per share voting power than Settlement Common Stock issued pursuant to subsections (g)(1)(A) and (g)(1)(B) of this section shall carry such voting power and be subject to such other terms as may be provided in the amendment to the articles of incorporation authorizing the issuance of such class of Settlement Common Stock.

(iii) In the resolution authorized by paragraph (5)(B), the board of directors shall provide that each share of Settlement Common Stock carrying the right to share in distributions made to shareholders pursuant to subsections (j) and (m) of section 1606 of this title shall be exchanged either for—

(I) a share of alienable common stock carrying such right, or

(II) a share of alienable common stock that does not carry such right together with a separate, non-voting security that represents only such right.

(iv) In the resolution authorized by paragraph (5)(B), the board of directors may impose upon the alienable common stock to be issued in exchange for Settlement Common Stock one or more of the following—

(I) a restriction granting the corporation, or the corporation and members of the shareholder's immediate family who are Natives or descendants of Natives the first right to purchase, on reasonable terms, the alienable common stock of the shareholder prior to the sale or transfer of such stock (other than a transfer by will or intestate succession) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance; or

(II) any other term, restriction, limitation, or other provision permitted under the laws of the State.

(C) The articles of incorporation of the Native Corporation shall be deemed amended to implement the provisions of the resolution authorized by paragraph (5)(B).

(D) Alienable common stock issued pursuant to this subparagraph shall not be subjected to a lien or judgment execution based upon any asserted or unasserted legal obligation of the original recipient arising prior to the issuance of such stock.

(7)(A) No share of alienable common stock issued pursuant to paragraph (6) shall carry voting rights if it is owned, legally or beneficially, by a person not a Native or a descendant of a Native.

(B)(i) A purchaser or other transferee of shares of alienable common stock shall, as a condition of the obligation of the issuing Native Corporation to transfer such shares on the books of the corporation, deliver to the corporation or transfer agent, as the case may be, a statement on a form prescribed by the corporation identifying the number of such shares to be transferred to such transferee and certifying—

(I) that such transferee is or is not a Native or a descendant of a Native;

(II) that such transferee, if not a Native or a descendant of a Native, understands that shares of such alienable common stock shall not carry voting rights so long as such shares are held by the transferee or any subsequent transferee not a Native or a descendant of a Native;

(III) that such transferee, if a purchaser, understands that such acquisition may be subject to section 78m(d) of title 15 and the regulations of the Securities and Exchange Commission promulgated thereunder; and

(IV) whether such transferee will be the sole beneficial owner of such shares (if not, the transferee must certify as to the identities of all beneficial owners of such shares and whether such owners are Natives or descendants of Natives).

(ii) The statement required by clause (i) shall be prima facie evidence of the matters certified therein and may be relied upon by the corporation in effecting a transfer on its books.

(iii) For purposes of this subparagraph, a beneficial owner of a security includes any person (including a corporation, partnership, trust, association, or other entity) who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares—

(I) voting power, which includes the power to vote, or to direct the voting of, such security; or

(II) investment power, which includes the power to dispose of, or to direct the disposition of, such security.

(iv) Any person who, directly or indirectly, creates or uses a trust, proxy, power of attorney, pooling arrangement, or any other contract, arrangement, or device with the purpose or effect of divesting such person of beneficial ownership of a security or preventing the vesting of such beneficial ownership as part of a plan or scheme to evade the requirements imposed by this section or section 78m(d) of title 15 shall be deemed for purposes of such sections to be the beneficial owner of such security.

(C) The statement required by subparagraph (B) shall be verified by the transferee before a notary public or other official authorized to administer oaths in accordance with the laws of the jurisdiction of the transferee or in which the transfer is made.

(Pub. L. 92–203, § 37, as added Pub. L. 100–241, § 8, Feb. 3, 1988, 101 Stat. 1797; amended Pub. L. 101–378, title III, § 301, Aug. 17, 1990, 104 Stat. 471; Pub. L. 102–201, title III, § 301, Dec. 10, 1991, 105 Stat. 1633.)

REFERENCES IN TEXT

Section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987, referred to in subsec. (d)(2)(B)(iii), is section 16(b) of Pub. L. 100–241, which is set out as a note under section 1601 of this title.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–201 substituted ''July 16, 1993: *Provided, however*, That this prohibition shall not apply to a Native Corporation whose board of directors approves, no later than March 1, 1992, a resolution (certified by the corporate secretary of such corporation) electing to decline the application of such prohibition'' for ''December 18, 1991''.

1990—Subsec. (d)(1)(A). Pub. L. 101–378, § 301(1), inserted before period at end ''and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii)''.

Subsec. (d)(2)(B). Pub. L. 101–378, § 301(2), (3), designated existing provisions as cl. (i) and added cls. (ii) and (iii).

## § 1629d. Dissenters rights

### (a) Coverage

(1) Notwithstanding the laws of the State, if the shareholders of a Native Corporation—

(A) fail to approve an amendment authorized by section 1629c(b) of this title to terminate alienability restrictions, a shareholder who voted for the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock; or

(B) approve an amendment authorized by section 1629c(d) of this title to continue alienability restrictions without issuing alienable common stock pursuant to section 1629c(d)(6) of this title, a shareholder who voted against the amendment may demand payment from the corporation for all of his or her shares of Settlement Common Stock.

(2)(A) A demand for payment made pursuant to paragraph (1)(A) shall be honored only if at the same time as the vote giving rise to the demand, the shareholders of the corporation approved a resolution providing for the purchase of Settlement Common Stock from dissenting shareholders.

(B) A demand for payment made pursuant to paragraph (1)(B) shall be honored.

### (b) Relationship to State procedure

(1) Except as otherwise provided in this section, the laws of the State governing the right of a dissenting shareholder to demand and receive payment for his or her shares shall apply to demands for payment honored pursuant to subsection (a)(2) of this section.

(2) The board of directors of a Native Corporation may approve a resolution to provide a dissenting shareholder periods of time longer than those provided under the laws of the State to take actions required to demand and receive payment for his or her shares.

### (c) Valuation of stock

(1) Prior to a vote described in subsection (a)(1) of this section, the board of directors of a Native Corporation may approve a resolution to provide that one or more of the following conditions will apply in the event a demand for payment is honored pursuant to subsection (a)(2) of this section—

(A) the Settlement Common Stock shall be valued as restricted stock; and

(B) the value of—

(i) any land conveyed to the corporation pursuant to section 1613(h)(1) of this title or any other land used as a cemetery; and

(ii) the surface estate of any land that is both—

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title, and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16); or

(iii) any land or interest in land which the board of directors believes to be only of speculative value;

shall be excluded by the shareholder making the demand for payment, the corporation purchasing the Settlement Common Stock of the shareholder, and any court determining the fair value of the shares of Settlement Common Stock to be purchased.

(2) No person shall have a claim against a Native Corporation or its board of directors based upon the failure of the board to approve a resolution authorized by this subsection.

### (d) Form of payment

(1) Prior to a vote described in subsection (a)(1) of this section, the board of directors of a Native Corporation may approve a resolution to provide that in the event a demand for payment is honored pursuant to subsection (a)(2) of this section payments to each dissenting shareholder shall be made by the corporation through the issuance of a negotiable note in the principal amount of the payment due, which shall be secured by—

(A) a payment bond issued by an insurance company or financial institution;

(B) the deposit in escrow of securities or property having a fair market value equal to at least 125 per centum of the face value of the note; or

(C) a lien upon real property interests of the corporation valued at 125 percent or more of the face amount of the note, except that no such lien shall be applicable to—

(i) land conveyed to the corporation pursuant to section 1613(h)(1) of this title, or any other land used as a cemetery;

(ii) the percentage interest in the corporation's timber resources and subsurface estate that exceeds its percentage interest in revenues from such property under section 1606(i) of this title; or

(iii) the surface estate of land that is both—

(I) exempt from real estate taxation pursuant to section 1636(d)(1)(A) of this title; and

(II) used by the shareholders of the corporation for subsistence uses (as defined in section 3113 of title 16),

unless the Board of Directors[1] of the corporation acts so as to make such lien applicable to such surface estate.

(2) A note issued pursuant to paragraph (1) shall provide that—

(A) interest shall be paid semi-annually, beginning as of the date on which the vote described in subsection (a)(1) of this section occurred, at the rate applicable on such date to obligations of the United States having a maturity date of one year, and

(B) the principal amount and accrued interest on such note shall be payable to the holder at a time specified by the corporation but in no event later than the date that is five years after the date of the vote described in subsection (a)(1) of this section.

**(e) Dividend adjustment**

(1) The cash payment made pursuant to subsection (a) of this section or the principal amount of a note issued pursuant to subsection (d) of this section to a dissenting shareholder shall be reduced by the amount of dividends paid to such shareholder with respect to his or her Settlement Common Stock after the date of the vote described in subsection (a)(1) of this section.

(2) Upon receipt of a cash payment pursuant to subsection (a) of this section or a note pursuant to subsection (d) of this section, a dissenting shareholder shall no longer have an interest in the shares of Settlement Common Stock or in the Native Corporation.

(Pub. L. 92–203, § 38, as added Pub. L. 100–241, § 9, Feb. 3, 1988, 101 Stat. 1802.)

### § 1629e. Settlement Trust option

**(a) Conveyance of corporate assets**

(1)(A) A Native Corporation may convey assets (including stock or beneficial interests therein) to a Settlement Trust in accordance with the laws of the State (except to the extent that such laws are inconsistent with this section and section 1629b of this title).

(B) The approval of the shareholders of the corporation in the form of a resolution shall be required to convey all or substantially all of the assets of the corporation to a Settlement Trust. A conveyance in violation of this clause shall be void ab initio and shall not be given effect by any court.

(2) No subsurface estate in land shall be conveyed to a Settlement Trust. A conveyance of title to, or any other interest in, subsurface estate in violation of this subparagraph shall be void ab initio and shall not be given effect by any court.

(3) Conveyances made pursuant to this subsection—

(A) shall be subject to applicable laws respecting fraudulent conveyance and creditors rights; and

(B) shall give rise to dissenters rights to the extent provided under the laws of the State only if—

(i) the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable; and

(ii) a shareholder vote on such transfer is required by section 1629b(a)(4) of this title.

(4) The provisions of this subsection shall not prohibit a Native Corporation from engaging in any conveyance, reorganization, or transaction not otherwise prohibited under the laws of the State or the United States.

**(b) Authority and limitations of a Settlement Trust**

(1) The purpose of a Settlement Trust shall be to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. A Settlement Trust shall not—

(A) operate as a business;

(B) alienate land or any interest in land received from the settlor Native Corporation (except if the recipient of the land is the settlor corporation or the land is conveyed for a homesite by the Trust to a beneficiary of the Trust who is also a legal resident under Alaska law of the Native village of the settlor corporation and the conveyance does not exceed 1.5 acres); or

(C) discriminate in favor of a group of individuals composed only or principally of employees, officers, or directors of the settlor Native Corporation.

An alienation of land or an interest in land in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(2) A Native Corporation that has established a Settlement Trust shall have exclusive authority to—

(A) appoint the trustees of the trust, and

(B) remove the trustees of the trust for cause.

Only a natural person shall be appointed a trustee of a Settlement Trust. An appointment or removal of a trustee in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(3) A Native Corporation that has established a Settlement Trust may expand the class of beneficiaries to include holders of Settlement Common Stock issued after the establishment of the trust without compensation to the original beneficiaries.

(4) A Settlement Trust shall not be held to violate any laws against perpetuities.

**(c) Savings**

(1) The provisions of this chapter shall continue to apply to any land or interest in land re-

[1] So in original. Probably should not be capitalized.

ceived from the Federal Government pursuant to this chapter and later conveyed to a Settlement Trust as if the land or interest in land were still held by the Native Corporation that conveyed the land or interest in land.

(2) No timber resources subject to section 1606(i) of this title conveyed to a Settlement Trust shall be sold, exchanged, or otherwise conveyed except as necessary to—

(A) dispose of diseased or dying timber or to prevent the spread of disease or insect infestation;

(B) prevent or suppress fire; or

(C) ensure public safety.

The revenue, if any, from such timber harvests shall be subject to section 1606(i) of this title as if such conveyance had not occurred.

(3) The conveyance of assets (including stock or beneficial interests) pursuant to subsection (a) of this section shall not affect the applicability or enforcement (including specific performance) of a valid contract, judgment, lien, or other obligation (including an obligation arising under section 1606(i) of this title) to which such assets, stock, or beneficial interests were subject immediately prior to such conveyance.

(4) A claim based upon paragraph (1), (2), or (3) shall be enforceable against the transferee Settlement Trust holding the land, interest in land, or other assets (including stock or beneficial interests) in question to the same extent as such claim would have been enforceable against the transferor Native Corporation, and valid obligations arising under section 1606(i) of this title as well as claims with respect to a conveyance in violation of a valid contract, judgment, lien, or other obligation shall also be enforceable against the transferor corporation.

(5) Except as provided in paragraphs (1), (2), (3), and (4), once a Native Corporation has made, pursuant to subsection (a) of this section, a conveyance to a Settlement Trust that does not—

(A) render it—

(i) unable to satisfy claims based upon paragraph (1), (2), or (3); or

(ii) insolvent; or

(B) occur when the Native Corporation is insolvent;

the assets so conveyed to the Settlement Trust shall not be subject to attachment, distraint, or sale on execution of judgment or other process or order of any court, except with respect to the lawful debts or obligations of the Settlement Trust.

(6) No transferee Settlement Trust shall make a distribution or conveyance of assets (including cash, stock, or beneficial interests) that would render it unable to satisfy a claim made pursuant to paragraph (1), (2), or (3). A distribution or conveyance made in violation of this paragraph shall be void ab initio and shall not be given effect by any court.

(7) Except where otherwise expressly provided, no provision of this section shall be construed to require shareholder approval of an action where shareholder approval would not be required under the laws of the State.

(8) A beneficiary's interest in a settlement trust and the distributions thereon shall be subject to creditor action (including without limitation, levy attachment, pledge, lien, judgment execution, assignment, and the insolvency and bankruptcy laws) only to the extent that Settlement Common Stock and the distributions thereon are subject to such creditor action under section 1606(h) of this title.

(Pub. L. 92–203, § 39, as added Pub. L. 100–241, § 10, Feb. 3, 1988, 101 Stat. 1804; amended Pub. L. 105–333, § 13, Oct. 31, 1998, 112 Stat. 3135; Pub. L. 106–559, title III, § 302, Dec. 21, 2000, 114 Stat. 2782; Pub. L. 108–7, div. F, title III, § 337(b), Feb. 20, 2003, 117 Stat. 278; Pub. L. 109–221, title I, § 101(b), May 12, 2006, 120 Stat. 337.)

AMENDMENTS

2006—Subsec. (a)(3)(B). Pub. L. 109–221, § 101(b)(1), made technical correction to directory language of Pub. L. 108–7, § 337(b). See 2003 Amendment note below.

Subsec. (a)(3)(B)(ii). Pub. L. 109–221, § 101(b)(2), substituted ''section 1629b(a)(4) of this title'' for ''(a)(4) of section 1629b of this title''.

2003—Subsec. (a)(3)(B). Pub. L. 108–7, § 337(b), as amended by Pub. L. 109–221, § 101(b)(1), added subpar. (B) and struck out former subpar. (B) which read as follows: ''shall give rise to dissenters rights to the extent provided under the laws of the State only if the rights of beneficiaries in the Settlement Trust receiving a conveyance are inalienable.''

2000—Subsec. (c)(8). Pub. L. 106–559 added par. (8).

1998—Subsec. (b)(1)(B). Pub. L. 105–333 inserted ''or the land is conveyed for a homesite by the Trust to a beneficiary of the Trust who is also a legal resident under Alaska law of the Native village of the settlor corporation and the conveyance does not exceed 1.5 acres'' after ''settlor corporation''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–221 effective Feb. 20, 2003, see section 101(c) of Pub. L. 109–221, set out as a note under section 1629b of this title.

## § 1629f. Claims arising from contamination of transferred lands

(a) As used in this section the term ''contaminant'' means[1] hazardous substance harmful to public health or the environment, including friable asbestos.

(b) Within 18 months of November 2, 1995, and after consultation with the Secretary of Agriculture, State of Alaska, and appropriate Alaska Native Corporations and organizations, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a report addressing issues presented by the presence of contaminants on lands conveyed or prioritized for conveyance to such corporations pursuant to this chapter. Such report shall consist of—

(1) existing information concerning the nature and types of contaminants present on such lands prior to conveyance to Alaska Native Corporations;

(2) existing information identifying to the extent practicable the existence and availability of potentially responsible parties for the removal or remediation of the effects of such contaminants;

(3) identification of existing remedies;

(4) recommendations for any additional legislation that the Secretary concludes is nec-

[1] So in original. Probably should be ''means a''.

essary to remedy the problem of contaminants on the lands; and

(5) in addition to the identification of contaminants, identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

(Pub. L. 92–203, § 40, as added Pub. L. 104–42, title I, § 103, Nov. 2, 1995, 109 Stat. 354.)

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 1629g. Open season for certain Alaska Native veterans for allotments

#### (a) In general

(1) During the eighteen month period following promulgation of implementing rules pursuant to subsection (e) of this section, a person described in subsection (b) of this section shall be eligible for an allotment of not more than two parcels of federal[1] land totaling 160 acres or less under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as such Act was in effect before December 18, 1971.

(2) Allotments may be selected only from lands that were vacant, unappropriated, and unreserved on the date when the person eligible for the allotment first used and occupied those lands.

(3) The Secretary may not convey allotments containing any of the following—

(A) lands upon which a native or non-native campsite is located, except for a campsite used primarily by the person selecting the allotment;

(B) lands selected by, but not conveyed to, the State of Alaska pursuant to the Alaska Statehood Act or any other provision of law;

(C) lands selected by, but not conveyed to, a Village or Regional Corporation;

(D) lands designated as wilderness by statute;

(E) acquired lands;

(F) lands containing a building, permanent structure, or other development owned or controlled by the United States, another unit of government, or a person other than the person selecting the allotment;

(G) lands withdrawn or reserved for national defense purposes other than National Petroleum Reserve-Alaska;

(H) National Forest Lands; and

(I) lands selected or claimed, but not conveyed, under a public land law, including but not limited to the following:

(1) Lands within a recorded mining claim.

(2) Home sites.

(3) Trade and Manufacturing sites.

(4) Reindeer sites or headquarters sites.

(5) Cemetery sites.

(4) A person who qualifies for an allotment on lands prohibited from conveyance by a provision of subsection (a)(3) of this section may select an alternative allotment from the following lands located within the geographic boundaries of the same Regional Corporation as the excluded allotment—

(A) lands withdrawn pursuant to section 1610(a)(1) of this title which were not selected, or were relinquished after selection;

(B) lands contiguous to the outer boundary of lands withdrawn pursuant to section 1610(a)(1)(C) of this title, except lands excluded from selection by a provision of subsection (a)(3) of this section and lands within a National Park; or

(C) vacant, unappropriated and unreserved lands.

(5) After consultation with a person entitled to an allotment within a Conservation System Unit, the Secretary may convey alternative lands of equal acreage, including lands within a Conservation System Unit, to that person if the Secretary determines that the allotment would be incompatible with a purpose for which the Conservation System Unit was established.

(6) All conveyances under this section shall—

(A) be subject to valid existing rights, including any right of the United States to income derived, directly or indirectly, from a lease, license, permit, right-of-way or easement; and

(B) reserve to the United States deposits of oil, gas and coal, together with the right to explore, mine, and remove these minerals, on lands which the Secretary determines to be prospectively valuable for development.

#### (b) Eligible person

(1) A person is eligible to select an allotment under this section if that person—

(A) would have been eligible for an allotment under the Act of May 17, 1906 (chapter 2469; 34 Stat. 197), as that Act was in effect before December 18, 1971 (except that the term ''nonmineral'', as used in that Act, shall for the purpose of this subsection be defined as provided in section 1634(a)(3) of this title, except that such definition shall not apply to land within a conservation system unit); and

(B) is a veteran who served during the period between January 1, 1969 and December 31, 1971 and—

(i) served at least 6 months between January 1, 1969 and December 31, 1971; or

(ii) enlisted or was drafted into military service after June 2, 1971 but before December 3, 1971.

(2)(A) The personal representative or special administrator, appointed in an Alaska State court proceeding of the estate of a decedent who was eligible under subsection (b)(1)(A) of this section may, for the benefit of the heirs, select an allotment if the decedent was a veteran who served in South East Asia at any time during the period beginning August 5, 1964, and ending December 31, 1971, and during that period the decedent—

(i) was killed in action;

(ii) was wounded in action and subsequently died as a direct consequence of that wound, as determined by the Department of Veterans Affairs or based on other evidence acceptable to the Secretary; or

[1] So in original. Probably should be capitalized.

(iii) died while a prisoner of war.

(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.

(3) No person who received an allotment or has a pending allotment under the Act of May 17, 1906 may receive an allotment under this section.

**(c) Study and report**

(1) The Secretary of the Interior shall conduct a study to identify and assess the circumstances of veterans of the Vietnam era who—

(A) served during a period other than that specified in subsection (b)(1)(B) of this section;

(B) were eligible for an allotment under the Act of May 17, 1906; and

(C) did not apply for an allotment under that Act.

(2) The Secretary shall, within one year of October 21, 1998, issue a written report on the study, including findings and recommendations, to the Committee on Appropriations and the Committee on Energy and Natural Resources in the Senate and the Committee on Appropriations and the Committee on Resources in the House of Representatives.

**(d) Definitions**

For the purposes of this section, the terms ''veteran'' and ''Vietnam era'' have the meanings given those terms by paragraphs (2) and (29), respectively, of section 101 of title 38.

**(e) Regulations**

No later than 18 months after October 21, 1998, the Secretary of the Interior shall promulgate, after consultation with Alaska Natives groups, rules to carry out this section.

(Pub. L. 92–203, § 41, as added Pub. L. 105–276, title IV, § 432, Oct. 21, 1998, 112 Stat. 2516; amended Pub. L. 106–559, title III, § 301, Dec. 21, 2000, 114 Stat. 2782; Pub. L. 108–452, title III, § 306, Dec. 10, 2004, 118 Stat. 3590.)

REFERENCES IN TEXT

Act of May 17, 1906, referred to in subsecs. (a)(1), (b)(1)(A), (3) and (c)(1)(B), (C), is act May 17, 1906, ch. 2469, 34 Stat. 197, as amended, which was classified to sections 270–1 to 270–3 of this title prior to its repeal by Pub. L. 92–203, § 18(a), Dec. 18, 1971, 85 Stat. 710.

The Alaska Statehood Act, referred to in subsec. (a)(3)(B), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108–452, § 306(1), inserted before semicolon at end ''(except that the term 'nonmineral', as used in that Act, shall for the purpose of this subsection be defined as provided in section 1634(a)(3) of this title, except that such definition shall not apply to land within a conservation system unit)''.

Subsec. (b)(2). Pub. L. 108–452, § 306(2), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, of subpar. (A), inserted ''or based on other evidence acceptable to the Secretary'' after ''Department of Veterans Affairs'' in cl. (ii), and added subpar. (B).

2000—Subsec. (a)(3)(I)(4). Pub. L. 106–559, § 301(1), substituted ''or'' for ''and Reindeer''.

Subsec. (a)(4)(B). Pub. L. 106–559, § 301(2), substituted ''; or'' for ''; and'' at end.

Subsec. (b)(1)(B)(i). Pub. L. 106–559, § 301(3), substituted ''December 31'' for ''June 2''.

Subsec. (b)(2). Pub. L. 106–559, § 301(4), inserted introductory provisions and struck out former introductory provisions which read as follows: ''The personal representative of the estate of a decedent who was eligible under subsection (b)(1) of this section may, for the benefit of the heirs, select an allotment if, during the period specified in subsection (b)(1)(B) of this section, the decedent—''.

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## § 1629h. Kake Tribal Corporation land transfer

**(a) In general**

If—

(1) the State of Alaska relinquishes its selection rights under the Alaska Statehood Act (Public Law 85–508) to lands described in subsection (c)(2) of this section; and

(2) Kake Tribal Corporation and Sealaska Corporation convey all right, title, and interest to lands described in subsection (c)(1) of this section to the City of Kake, Alaska,

then the Secretary of Agriculture (hereinafter referred to as ''Secretary'') shall, not later than 180 days thereafter, convey to Kake Tribal Corporation title to the surface estate in the land identified in subsection (c)(2) of this section, and convey to Sealaska Corporation title to the subsurface estate in such land.

**(b) Effect on selection totals**

(1) Of the lands to which the State of Alaska relinquishes selection rights and which are conveyed to the City of Kake pursuant to subsection (a) of this section, 694.5 acres shall be charged against lands to be selected by the State of Alaska under section 6(a) of the Alaska Statehood Act and 694.5 acres against lands to be selected by the State of Alaska under section 6(b) of the Alaska Statehood Act.

(2) The land conveyed to Kake Tribal Corporation and to Sealaska Corporation under this section is, for all purposes, considered to be land conveyed under this chapter. However, the conveyance of such land to Kake Tribal Corporation shall not count against or otherwise affect the Corporation's remaining entitlement under section 1615(b) of this title.

**(c) Lands subject to exchange**

(1) The lands to be transferred to the City of Kake under subsection (a) of this section are the surface and subsurface estate to approximately 1,430 acres of land owned by Kake Tribal Corporation and Sealaska Corporation, and depicted as ''KTC Land to City of Kake'' on the map entitled ''Kake Land Exchange-2000'', dated May 2000.

(2) The lands subject to relinquishment by the State of Alaska and to conveyance to Kake Tribal Corporation and Sealaska Corporation under subsection (a) of this section are the surface and subsurface estate to approximately 1,389 acres of Federal lands depicted as ''Jenny Creek-Land Selected by the State of Alaska to KTC'' on the map entitled ''Kake Land Exchange-2000'', dated May 2000.

(3) In addition to the transfers authorized under subsection (a) of this section, the Secretary may acquire from Sealaska Corporation the subsurface estate to approximately 1,127 acres of land depicted as ''KTC Land-Conservation Easement to SEAL Trust'' on the map entitled ''Kake Land Exchange-2000'', dated May 2000, through a land exchange for the subsurface estate to approximately 1,168 acres of Federal land in southeast Alaska that is under the administrative jurisdiction of the Secretary. Any exchange under this paragraph shall be subject to the mutual consent of the United States Forest Service and Sealaska Corporation.

**(d) Withdrawal**

Subject to valid existing rights, the lands described in subsection (c)(2) of this section are withdrawn from all forms of location, entry, and selection under the mining and public land laws of the United States and from leasing under the mineral and geothermal leasing laws. This withdrawal expires 18 months after the effective date of this section.

**(e) Maps**

The maps referred to in this chapter shall be maintained on file in the Office of the Chief, United States Forest Service, the Office of the Secretary of the Interior, and the Office of the Petersburg Ranger District, Alaska.

**(f) Watershed management**

The United States Forest Service may cooperate with Kake Tribal Corporation and the City of Kake in developing a watershed management plan that provides for the protection of the watershed in the public interest. Grants may be made, and contracts and cooperative agreements may be entered into, to the extent necessary to assist the City of Kake and Kake Tribal Corporation in the preparation and implementation of a watershed management plan for the land within the City of Kake's municipal watershed.

**(g) Effective date**

This section is effective upon the execution of one or more conservation easements that, subject to valid existing rights of third parties—

(1) encumber all lands depicted as ''KTC Land to City of Kake'' and ''KTC Land-Conservation Easement to SEAL Trust'' on a map entitled ''Kake Land Exchange-2000'' dated May 2000;

(2) provide for the relinquishment by Kake Tribal Corporation of the Corporation's development rights on lands described in paragraph (1); and

(3) provide for perpetual protection and management of lands depicted as ''KTC Land to City of Kake'' and ''KTC Land-Conservation Easement to SEAL Trust'' on the map described in paragraph (1) as—

(A) a watershed;

(B) a municipal drinking water source in accordance with the laws of the State of Alaska;

(C) a source of fresh water for the Gunnuk Creek Hatchery; and

(D) habitat for black bear, deer, birds, and other wildlife.

**(h) Timber manufacturing; export restriction**

Notwithstanding any other provision of law, timber harvested from lands conveyed to Kake Tribal Corporation under this section shall not be available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey such timber to any person for the purpose of exporting that timber from the State of Alaska.

**(i) Authorization of appropriations**

There are authorized such sums as may be necessary to carry out this chapter, including to compensate Kake Tribal Corporation for relinquishing its development rights pursuant to subsection (g)(2) of this section and to provide assistance to Kake Tribal Corporation to meet the requirements of subsection (h) of this section. No funds authorized under this section may be paid to Kake Tribal Corporation unless Kake Tribal Corporation is a party to the conservation easements described in subsection (g) of this section.

(Pub. L. 92–203, § 42, as added Pub. L. 106–283, § 3, Oct. 6, 2000, 114 Stat. 867.)

REFERENCES IN TEXT

The Alaska Statehood Act, referred to in subsecs. (a)(1) and (b)(1), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

DECLARATION OF PURPOSE

Pub. L. 106–283, § 2, Oct. 6, 2000, 114 Stat. 867, provided that: ''The purpose of this Act [see Short Title of 2000 Amendment note set out under section 1601 of this title] is to authorize the reallocation of lands and selection rights between the State of Alaska, Kake Tribal Corporation, and the City of Kake, Alaska, in order to provide for the protection and management of the municipal watershed.''

## CHAPTER 33A—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT AND ALASKA STATEHOOD

Sec.
1631. Ownership of submerged lands.
1632. Statute of limitations on decisions of Secretary and reconveyance of land by Village Corporation.
1633. Administrative provisions.
1634. Alaska Native allotments.
1635. State selections and conveyances.

Sec.
1636. Alaska land bank.
1637. Use of protraction diagrams.
1638. National Environmental Policy Act.
1639. Construction with Alaska Native Claims Settlement Act.
1640. Relinquishment of selections partly within conservation units.
1641. Conveyances to Village Corporations.
1642. Land conveyances.

## § 1631. Ownership of submerged lands

### (a) Meandering in the surveying of submerged land

(1) Except as provided in paragraph (2), whenever the Secretary surveys land selected by a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Alaska Statehood Act, or this Act, lakes, rivers, and streams shall be meandered in accordance with the principles in the Bureau of Land Management, ''Manual of Surveying Instructions'' (1973).

(2) If title to lands beneath navigable waters of a lake less than fifty acres in size or a river or stream less than three chains in width did not vest in the State pursuant to the Submerged Lands Act [43 U.S.C. 1301 et seq., 1311 et seq.], such lake, river, or stream shall not be meandered.

(3) The Secretary is not required to determine the navigability of a lake, river, or stream which because of its size or width is required to be meandered or to compute the acreage of the land beneath such lake, river, or stream or to describe such land in any conveyance document.

(4) Nothing in this subsection shall be construed to require ground survey or monumentation of meanderlines.

### (b) Ownership of riparian lands; ratification of memorandum of agreement

(1) Whenever, either before or after August 16, 1988, the Secretary conveys land to a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Alaska Statehood Act, or this Act which abuts or surrounds a meanderable lake, river, or stream, all right, title, and interest of the United States, if any, in the land under such lake, river, or stream lying between the uplands and the median line or midpoint, as the case may be, shall vest in and shall not be charged against the acreage entitlement of such Native or Native Corporation or the State. The right, title, and interest vested in a Native or Native Corporation shall be no greater an estate than the estate he or it is conveyed in the land which abuts or surrounds the lake, river, or stream.

(2) The specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled, ''Memorandum of Agreement between the United States Department of the Interior and the State of Alaska'' dated March 28, 1984, signed by the Secretary and the Governor of Alaska and submitted to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, are hereby incorporated in this section and are ratified as to the duties and obligations of the United States and the State, as a matter of Federal law.

### (c) Interim conveyances and patents; navigability of streams; award of costs and attorney's fees

(1) The execution of an interim conveyance or patent, as appropriate, by the Bureau of Land Management which conveys an area of land selected by a Native or Native Corporation which includes, surrounds, or abuts a lake, river, or stream, or any portion thereof, shall be the final agency action with respect to a decision of the Secretary of the Interior that such lake, river, or stream, is or is not navigable, unless such decision was validly appealed to an agency or board of the Department of the Interior on or before December 2, 1980.

(2) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of a lake, river, or stream within an area selected by a Native or Native Corporation pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or this Act unless a determination by the Bureau of Land Management that such lake, river, or stream, is or is not navigable, was validly appealed to such agency or board on or before December 2, 1980.

(3) If title to land conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or this Act which underlies a lake, river, or stream is challenged in a court of competent jurisdiction and such court determines that such land is owned by the Native Corporation, the Native Corporation shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

### (d) Definitions

For the purposes of this section, the terms ''navigable'' and ''navigability'' means navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States pursuant to the Submerged Lands Act [43 U.S.C. 1301 et seq., 1311 et seq.] and section 6(m) of the Alaska Statehood Act.

(Pub. L. 96–487, title IX, § 901, Dec. 2, 1980, 94 Stat. 2430; Pub. L. 99–258, Mar. 19, 1986, 100 Stat. 42; Pub. L. 99–644, Nov. 10, 1986, 100 Stat. 3581; Pub. L. 100–395, title I, § 101, Aug. 16, 1988, 102 Stat. 979.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsecs. (a)(1), (b)(1), and (c)(2), (3), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

This Act, referred to in subsecs. (a)(1), (b)(1), and (c)(2), (3), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Alaska Statehood Act, referred to in subsecs. (a)(1), (b)(1), and (d), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preced-

ing section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Submerged Lands Act, referred to in subsecs. (a)(2) and (d), is act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

CODIFICATION

August 16, 1988, referred to in subsec. (b)(1), was in the original ''the date of enactment of this section'', which was translated as meaning the date of enactment of Pub. L. 100–395, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

1988—Pub. L. 100–395 amended section generally, revising and restating as subsecs. (a) to (d) provisions of former subsecs. (a) to (h).

1986—Subsec. (a). Pub. L. 99–644 substituted ''eight years after the date of execution'' for ''six years after the date of execution'' in two places and ''nine years after December 2, 1980'' for ''seven years after December 2, 1980'' in two places.

Pub. L. 99–258 substituted ''six years after the date of execution'' for ''five years after the date of execution'' in two places.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

CONSTRUCTION

Section 102 of Pub. L. 100–395 provided that: ''Nothing in this Act [amending this section and section 3192 of Title 16, Conservation, and enacting provisions set out as notes under this section] shall amend or alter any land exchange agreement to which the United States is a party, or any statute, including but not limited to the Act of January 2, 1976 (89 Stat. 1151) and section 506(c) of the Alaska National Interest Lands Conservation Act (94 Stat. 2409; Public Law 96–487), that authorizes, ratifies or implements such an agreement.''

REPORT TO CONGRESS

Section 103 of Pub. L. 100–395 directed Secretary of the Interior to prepare a report that assesses the effects of the implementation of section 101 of Pub. L. 100–395 (amending this section) on Conservation System Units as defined in 16 U.S.C. 3102(4) and makes recommendations for appropriate action, specified scope of the report, and directed Secretary, within one year after Aug. 16, 1988, to submit a report to Congress.

DEFINITIONS

For definition of the terms ''land'', ''Federal land'', ''public lands'', ''conservation system unit'', ''Alaska Native Claims Settlement Act'', ''Native Corporation'', ''Regional Corporation'', ''Village Corporation'', ''Urban Corporation'', ''Native Group'', ''Native land'', ''Secretary'', ''wilderness'' and ''National Wilderness Preservation System'', ''Alaska Statehood Act'', ''State'', ''Alaska Native'' or ''Native'', ''fish and wildlife'', and ''take'' or ''taking'' as used in this chapter, including sections 1639 to 1641 of this title, as having the same meaning as they have in the Alaska Native Claims Settlement Act, section 1601 et seq. of this title, and the Alaska Statehood Act, Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions, see section 3102 of Title 16, Conservation.

## § 1632. Statute of limitations on decisions of Secretary and reconveyance of land by Village Corporation

(a) Except for administrative determinations of navigability for purposes of determining ownership of submerged lands under the Submerged Lands Act [43 U.S.C. 1301 et seq., 1311 et seq.], a decision of the Secretary under this chapter or the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or December 2, 1980, whichever is later: *Provided*, That the party seeking such review shall first exhaust any administrative appeal rights.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(c)] shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in regulations promulgated by the Secretary.

(Pub. L. 96–487, title IX, § 902, Dec. 2, 1980, 94 Stat. 2433.)

REFERENCES IN TEXT

The Submerged Lands Act, referred to in subsec. (a), is Act May 22, 1953, ch. 65, 67 Stat. 29, as amended, which is classified generally to subchapters I and II (§§1301 et seq., 1311 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1301 of this title and Tables.

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title IX of Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2430, which enacted this chapter, amended sections 1614 and 1620 of this title, and amended provisions set out as notes under section 1611 of this title and preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of title IX to the code, see Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (a), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

## § 1633. Administrative provisions

### (a) Limitations concerning easements

With respect to lands conveyed to Native Corporations or Native Groups the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on Native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

### (b) Acquisition of future easements

Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Sec-

retary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act [43 U.S.C. 1621(f)].

**(c) Status of certain lease offers**

Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 [30 U.S.C. 181 et seq.] which were filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after December 2, 1980, to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) [43 U.S.C. 1613(h)(5) or (6)] as part of the entitlement to receive land under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] shall not constitute valid existing rights under section 14(g) of such Act [43 U.S.C. 1613(g)] or under this Act.

**(d) Limitation**

This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94–456 and 95–178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act [43 U.S.C. 1621(k)].

(Pub. L. 96–487, title IX, § 903, Dec. 2, 1980, 94 Stat. 2433.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b) to (d), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (b) and (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. Section 17(b) of the Act was classified to section 1616(b) of this title and was omitted from the Code. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

The Mineral Leasing Act of 1920, referred to in subsec. (c), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94–456 and 95–178, referred to in subsec. (d), is Pub. L. 94–204, Jan. 2, 1976, 89 Stat. 1145, which enacted sections 1625 to 1627 of this title, amended sections 1615, 1616, 1620, and 1621 of this title, and enacted provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title, as amended and supplemented by Pub. L. 94–456, Oct. 4, 1976, 90 Stat. 1934, which amended section 1615 of this title and provisions set out as notes under section 1611 of this title, and Pub. L. 95–178, Nov. 15, 1977, 91 Stat. 1369, which amended sections 1613, 1615, and 1628 of this title, enacted a provision set out as a note under section 1611 of this title, and amended a provision set out as a note under section 1611 of this title. For complete classification of these Acts to the Code, see Tables.

## § 1634. Alaska Native allotments

**(a) Approval of applications for certain lands; lands containing coal, oil, or gas; nonmineral lands; lands within National Park System; protests; voluntary relinquishment of application**

(1)(A) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe either land that was unreserved on December 13, 1968, or land within the National Petroleum Reserve—Alaska (then identified as Naval Petroleum Reserve No. 4) or within Fort Davis (except as provided in subparagraph (B)) are hereby approved on the one hundred and eightieth day following December 2, 1980, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor.

(B) The land referred to in subparagraph (A) with respect to Fort Davis—

(i) shall be restricted to—

(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

(II) the heirs of an applicant who made an application described in subclause (I); and

(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 1244(a)(7) of title 16, but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (43 U.S.C. 270–11) [43 U.S.C. 270–11 to 270–13].[1]

(3) When on or before the one hundred and eightieth day following December 2, 1980, the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided*, That ''nonmineral'', as that term is used in such Act, is defined to include land valuable for deposits of sand or gravel.

(4) Where an allotment application describes land within the boundaries of a unit of the Na-

[1] See References in Text note below.

tional Park System established on or before December 2, 1980, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)], or where an allotment application describes land which has been patented or deeded to the State of Alaska or which on or before December 18, 1971, was validly selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(1)(A)] from those lands made available for selection by section 11(a)(2) of the Act [43 U.S.C. 1610(a)(2)] by any Native Village certified as eligible pursuant to section 11(b) of such Act [43 U.S.C. 1610(b)], paragraph (1) of this subsection and subsection (d) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and other applicable law.

(5) Paragraph (1) of this subsection and subsection (d) of this section shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following December 2, 1980—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the Corporation pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) of this section shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

(7) Paragraph (1) of this subsection and subsection (d) of this section shall apply, and paragraph (5) of this subsection shall cease to apply, to an application—

(A) that is open and pending on October 31, 1998;

(B) if the lands described in the application are in Federal ownership other than as a result of reacquisition by the United States after January 3, 1959; and

(C) if any protest which is filed by the State of Alaska pursuant to paragraph (5)(B) with respect to the application is withdrawn or dismissed either before, on, or after October 31, 1998.

(8)(A) Any allotment application which is open and pending and which is legislatively approved by enactment of paragraph (7) shall, when allotted, be made subject to any easement, trail, or right-of-way in existence on the date of the Native allotment applicant's commencement of use and occupancy.

(B) The jurisdiction of the Secretary is extended to make any factual determinations required to carry out this paragraph.

**(b) Conflicting land descriptions in applications; adjustments; reductions**

Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further*, That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

**(c) Amendment of land description in application; notification; protest; adoption of final plan of survey**

An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided*, That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following December 2, 1980, or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in sub-

section (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of December 2, 1980, notwithstanding the actual date of filing: *Provided further*, That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further*, That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

**(d) Powersites and power projects**

Where the land described in an allotment application pending before the Department of the Interior on or before December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however*, That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended [16 U.S.C. 791a et seq.], or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further*, That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended [16 U.S.C. 818]: *Provided further*, That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after December 2, 1980, if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended [16 U.S.C. 791a et seq.], or actually utilized or being developed for a purpose authorized by that Act, as amended [16 U.S.C. 791a et seq.], or other Act of Congress.

**(e) Validity of existing rights; rights acquired by actual use and national forest lands unaffected**

Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting national forest lands.

**(f) Reinstatement**

(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a) of this section, and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled ''An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska'', approved May 17, 1906 (34 Stat. 197), that—

(i) was pending before the Department of the Interior on or before December 18, 1971; and

(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

(i) relinquished by the applicant; or

(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands (or any interest in the lands) described in the initial application.

(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or

any interest in the lands) under this paragraph shall terminate on the date that is 6 years after October 14, 1992.

(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after October 14, 1992, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section.

(C) The Secretary shall then either—

(i) if no protest is filed, approve the application; or

(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

(I) if the protest is legally insufficient, approve the application; or

(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

(i) survey the allotment; and

(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for replacement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

(i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve-Alaska; and

(ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

(I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(II) to select mineral interests to replace the acreage.

(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.

(Pub. L. 96–487, title IX, § 905, Dec. 2, 1980, 94 Stat. 2435; Pub. L. 102–415, §§ 2, 12, Oct. 14, 1992, 106 Stat. 2112, 2115; Pub. L. 105–333, § 9, Oct. 31, 1998, 112 Stat. 3134.)

REFERENCES IN TEXT

Act of March 8, 1922 (43 U.S.C. 270–11), referred to in subsec. (a)(2), is act Mar. 8, 1922, ch. 96, 42 Stat. 415, as amended, which enacted sections 270–11 to 270–13 of this title. Sections 270–11 and 270–13 of this title were repealed by Pub. L. 94–579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789. For complete classification of this Act to the Code, see Tables.

Act of May 17, 1906, as amended, referred to in subsecs. (a)(3), (4), (5), (d), (e), and (f)(1)(A), is act May 17, 1906, ch. 2469, 34 Stat. 197, as amended, which was classified to sections 270–1 to 270–3 of this title prior to its repeal by Pub. L. 92–203, § 18(a), Dec. 18, 1971, 85 Stat. 710.

The Alaska Statehood Act, referred to in subsecs. (a)(4) and (e), is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (a)(4), (5)(A), (e), and (f)(4)(A), (5)(C)(ii)(I), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

That Act, as amended, referred to in subsec. (d), is the Federal Power Act, act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. Part I of the Federal Power Act of June 10, 1920, as amended, is classified generally to subchapter I (§ 791a et seq.) of chapter 12 of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

CODIFICATION

In subsecs. (a)(1), (3)–(5), (c), and (d), ''December 2, 1980'' substituted for ''the effective date of this Act'', which probably meant the date of enactment of Pub. L. 96–487.

AMENDMENTS

1998—Subsec. (a)(7), (8). Pub. L. 105–333 added pars. (7) and (8).

1992—Subsec. (a)(1). Pub. L. 102–415, § 2, designated existing provisions as subpar. (A), inserted ''or within Fort Davis (except as provided in subparagraph (B))'' after ''Naval Petroleum Reserve No. 4)'', and added subpar. (B).

Subsec. (f). Pub. L. 102–415, § 12, added subsec. (f).

### § 1635. State selections and conveyances

#### (a) Omitted

#### (b) School lands settlement

(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsections (j) and (k) of section 6 of the Alaska Statehood Act.

#### (c) Prior tentative approvals

(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to December 2, 1980, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1610(a)(2), 1611(a), or 1611(b)].

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

#### (d) Prior State selections

(1) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (*l*) of this section, which are specified in the list entitled ''Prior State of Alaska Selections to be Conveyed by Congress'', dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary except those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary. If any of those townships listed above

contain lands within the boundaries of any conservation system unit, national conservation area, national recreation area, new national forest or forest addition, established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) In furtherance of the State's entitlement to lands under section 6(a) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], all right, title and interest of the United States in and to all valid land selections made from the national forests under authority of said section 6(a) which have been approved by the Secretary of Agriculture prior to July 1, 1979.

(3) As soon as practicable after December 2, 1980, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(4) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(5) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(6) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.].

**(e) Future "top filings"**

Subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6(a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such applications, available within the meaning of section 6(a) or (b) of the Alaska Statehood Act, other than lands within any conservation system unit or the National Petroleum Reserve—Alaska. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsection (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

**(f) Right to overselect**

(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

(3) Omitted

**(g) Conveyance of specified lands**

In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests and forest additions, established, designated, or expanded by this Act, which are specified in the list entitled ''State Selection Lands May 15, 1978'', dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such list which are not, on December 2, 1980, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section, to the extent such an application could have been filed under such subsection (e) of this section.

**(h) Limitation of conveyances of specified lands tentative approvals; surveys**

(1) Lands identified in subsection (g) of this section are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act

[43 U.S.C. 1601 et seq.]. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of December 2, 1980, subject to those reservations specified in subsection (*l*) of this section.

(2)(A) As soon as practicable after December 2, 1980, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (i) of this section.

(B)(i) The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(ii) In establishing the priorities for tentative approval under clause (i), the State shall—

(I) in the case of a selection under section 6(a) of Public Law 85–508 (commonly known as the ''Alaska Statehood Act'') (72 Stat. 340), include all land selected; or

(II) in the case of a selection under section 6(b) of that Act—

(aa) include at least 5,760 acres; or

(bb) if a waiver has been granted under section 6(g) of that Act or less than 5,760 acres of the entitlement remains, prioritize the selection in such increments as are available for conveyance.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) of this section shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) of this section on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

**(i) Adjudication**

Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuance of tentative approval.

**(j) Clarification of land status outside units**

As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1616(d)(1)]; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act;[1]

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act [43 U.S.C. 1610], which are not finally conveyed pursuant to section 12, 14, or 19 of such Act [43 U.S.C. 1611, 1613, or 1618];

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987);

(4) classifications or designations pursuant to the National Forest Management Act (90 Stat. 2949) as amended; and

(5) classifications, withdrawals exceeding 5,000 acres (except withdrawals exceeding 5,000 acres which the Congress, by concurrent resolution, approves within 180 days of the withdrawal or December 2, 1980, whichever occurs later), or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743) [43 U.S.C. 1701 et seq.].

**(k) Interim provisions**

Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State:

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after December 2, 1980, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, per-

[1] So in original. Probably should be ''subsection (e) of this section;''.

mit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act [43 U.S.C. 1608] or the fourth sentence of section 6(h) of the Alaska Statehood Act.

**(*l*) Existing rights**

(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and to any right-of-way or easement reserved for or appropriated by the United States prior to selection of the underlying lands by the State of Alaska.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor,[2] or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act [43 U.S.C. 1608] or the fourth sentence of section 6(h) of the Alaska Statehood Act.

[2] So in original. Probably should be ''permitter,''.

**(m) Extinguishment of certain time extensions**

Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act [43 U.S.C. 1616(d)(2)(E)] are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections.

**(n) Effect on third-party rights**

(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94–204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94–456), or section 3 of the Act of November 15, 1977 (Public Law 94–178).

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subject to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State, to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12(b) of the Act of January 2, 1976 (Public Law 94–204), as amended.

(3) Nothing in this chapter shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or other interference with, aboriginal interests if any, occurring prior to December 18, 1971.

**(*o*) Status of lands within units**

(1) Notwithstanding any other provision of law, subject to valid existing rights any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1616(d)(1)] and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after December 2, 1980, such land has been validly selected by and conveyed to a Native Corporation, or unless before December 2, 1980, such land has been validly selected by, and after December 2, 1980, is conveyed to the State. At such time as the entitlement of any Native Corporation to land under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] is satisfied, any land within a conservation system unit selected by such Native Corporation shall, to the extent that such land is in excess of its entitlement, become part of such unit and administered accordingly: *Provided*, That nothing in this subsection shall necessarily preclude the future conveyance to the State of those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on

file with the Office of the Secretary: *Provided further*, That nothing in this subsection shall affect any conveyance to the State pursuant to subsections (b), (c), (d), or (g) of this section.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

**(p) PYK line**

The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (g) of this section but shall apply to future State selections.

(Pub. L. 96–487, title IX, §906, Dec. 2, 1980, 94 Stat. 2437; Pub. L. 108–452, title I, §102, Dec. 10, 2004, 118 Stat. 3577.)

REFERENCES IN TEXT

Act of March 4, 1915, as confirmed and transferred in section 6(k) of the Alaska Statehood Act, referred to in subsec. (b)(1), is act Mar. 4, 1915, ch. 181, §1, 38 Stat. 1214, which was classified to section 353 of Title 48, Territories and Insular Possessions, and was repealed by section 6(k) of the Alaska Statehood Act, Pub. L. 85–508, §6(k), July 7, 1958, 72 Stat. 343. See section 6(k) of the Alaska Statehood Act set out as a note preceding section 21 of Title 48.

The Alaska Statehood Act, referred to in text, is Pub. L. 85–508, July 7, 1958, 72 Stat. 339, as amended, which is set out as a note preceding section 21 of Title 48. For complete classification of this Act to the Code, see Tables.

The Alaska Native Claims Settlement Act, referred to in subsecs. (c)(1), (d)(1), (2), (6), (e), (h)(1), (*l*)(1), and (*o*)(1), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

This Act, referred to in subsecs. (d)(1), (g), (k), (*l*)(1), and (n)(2), (4), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Classification and Multiple Use Act, referred to in subsec. (j)(3), probably means Pub. L. 88–607, Sept. 19, 1964, 78 Stat. 986, which enacted sections 1411 to 1418 of this title, and was omitted from the Code.

The National Forest Management Act, as amended, referred to in subsec. (j)(4), probably means the National Forest Management Act of 1976, Pub. L. 94–588, Oct. 22, 1976, 90 Stat. 2949, as amended. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of Title 16, Conservation, and Tables.

The Federal Land Policy and Management Act, referred to in subsec. (j)(5), probably means the Federal Land Policy and Management Act of 1976, Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

Section 12 of the Act January 2, 1976 (Public Law 94–204), referred to in subsec. (n)(1) and (2), is section 12 of Pub. L. 94–204, Jan. 2, 1976, 89 Stat. 1150, as amended, which is set out as a note under section 1611 of this title.

Sections 4 and 5 of the Act of October 4, 1976 (Public Law 94–456), referred to in subsec. (n)(1), are sections 4 and 5 of Pub. L. 94–456, Oct. 4, 1976, 90 Stat. 1935, which are set out as a note under section 1611 of this title.

Section 3 of the Act of November 15, 1977 (Public Law 94–178), referred to in subsec. (n)(1), probably means section 3 of Pub. L. 95–178, Nov. 15, 1977, 91 Stat. 1369, which enacted a provision set out as a note under section 1611 of this title and amended a provision set out as a note under section 1611 of this title.

This chapter, referred to in subsec. (n)(3), was in the original ''this title'', meaning title IX of Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2430, which enacted this chapter, amended sections 1614 and 1620 of this title, and amended provisions set out as notes under section 1611 of this title and preceding section 21 of Title 48, Territories and Insular Possessions. For complete classification of title IX to the Code, see Tables.

Section 10 of the Alaska Statehood Act, referred to in subsec. (p), is section 10 of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48.

CODIFICATION

Section is comprised of section 906 of Pub. L. 96–487. Subsecs. (a) and (f)(3) of section 906 of Pub. L. 96–487 amended section 6(a) and (b), and section 6(g), respectively, of the Alaska Statehood Act, Pub. L. 85–508, July 7, 1958, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

In subsec. (j)(5), ''December 2, 1980'' substituted for ''the effective date of this Act'', which probably meant the date of enactment of Pub. L. 96–487.

AMENDMENTS

2004—Subsec. (h)(2). Pub. L. 108–452 designated first sentence as subpar. (A) and second sentence as cl. (i) of subpar. (B) and added cl. (ii) of subpar. (B).

SELECTION OF CERTAIN REVERSIONARY INTERESTS HELD BY THE UNITED STATES

Pub. L. 108–452, title I, §103, Dec. 10, 2004, 118 Stat. 3577, provided that:

''(a) IN GENERAL.—All reversionary interests held by the United States in land owned by the State [of Alaska] or any political subdivision of the State and any Federal land leased by the State under the Act of August 23, 1950 (25 U.S.C. 293b), or the Act of June 4, 1953 (25 U.S.C. 293a), that is prioritized for conveyance by the State under section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2))—

''(1) are deemed to be selected; and

''(2) may, with the concurrence of the Secretary [of the Interior] or the head of the Federal agency with administrative jurisdiction over the land, be conveyed under section 6 of Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340) [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions].

''(b) EFFECT ON ENTITLEMENT.—If, before the date of enactment of this Act [Dec. 10, 2004], the entitlement of the State has not been charged with respect to a parcel for which a reversionary interest is conveyed under subsection (a), the total acreage of the parcel shall be charged against the remaining entitlement of the State.

''(c) MINIMUM ACREAGE REQUIREMENT NOT APPLICABLE.—The minimum acreage requirement under subsections (a) and (b) of section 6 of Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340) shall not apply to the selection of reversionary interests under subsection (a).

''(d) STATE WAIVER.—On conveyance to the State of any reversionary interest selected under subsection (a), the State shall be deemed to have waived all right to any future credit should the reversion not occur.

''(e) LIMITATION.—This section shall not apply to—

''(1) reversionary interests in land acquired by the United States through the use of amounts from the Exxon Valdez Oil Spill Trust Fund; or

''(2) reversionary interests in any land conveyed to the State as a result of the 'Terms and Conditions for Land Consolidation and Management in Cook Inlet Area' as ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).''

SETTLEMENT OF REMAINING ENTITLEMENT

Pub. L. 108–452, title I, § 106, Dec. 10, 2004, 118 Stat. 3579, provided that:

''(a) IN GENERAL.—The Secretary [of the Interior] may enter into a binding written agreement with the State [of Alaska] with respect to—

''(1) the exact number and location of acres of land remaining to be conveyed under each entitlement established or confirmed by Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340) [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions], from—

''(A) the land selected by the State as of January 3, 1994; and

''(B) selections under the Act of January 21, 1929 (45 Stat. 1091, chapter 92) [43 U.S.C. 852 note];

''(2) the priority in which the land is to be conveyed;

''(3) the relinquishment of selections which are not to be conveyed; and

''(4) the survey of the exterior boundaries of the land to be conveyed.

''(b) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that any concerns or issues identified by any Federal agency potentially affected are given consideration.

''(c) ERRORS.—The State, by entering into an agreement under subsection (a), shall receive any gain or bear any loss that results from errors in prior surveys, protraction diagrams, or the computation of the ownership of third parties on any land conveyed under an agreement entered into under subsection (a).

''(d) AVAILABILITY OF AGREEMENTS.—Agreements entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

''(e) EFFECT.—Nothing in this section increases the entitlement provided to the State under Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340), or the Act of January 21, 1929 (45 Stat. 1091, chapter 92).''

EFFECT OF FEDERAL MINING CLAIMS

Pub. L. 108–452, title I, § 107, Dec. 10, 2004, 118 Stat. 3580, provided that:

''(a) CONDITIONAL RELINQUISHMENTS.—

''(1) IN GENERAL.—To facilitate the conversion of Federal mining claims to State [of Alaska] mining claims on land selected or topfiled by the State, a Federal mining claimant may file with the Secretary [of the Interior] a voluntary relinquishment of the Federal mining claim conditioned on conveyance of the land to the State.

''(2) CONVEYANCE OF RELINQUISHED CLAIM.—The Secretary may convey the land described in the relinquished Federal mining claim to the State if, with respect to the land—

''(A) the State has filed as of January 3, 1994—

''(i) a selection application under Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 339) [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions]; or

''(ii) a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act [(]43 U.S.C. 1635(e)); and

''(B) the land addressed by the selection application or future selection application is conveyed to the State.

''(3) OBLIGATIONS UNDER FEDERAL LAW.—Until the date on which the land is conveyed under paragraph (2), a Federal mining claimant shall be subject to any obligations relating to the land under Federal law.

''(4) NO RELINQUISHMENT.—If the land previously encumbered by the relinquished Federal mining claim is not conveyed to the State under paragraph (2), the relinquishment of land under paragraph (1) shall be of no effect.

''(b) RIGHTS-OF-WAY; OTHER INTEREST.—On conveyance to the State of a relinquished Federal mining claim under this section, the State shall assume authority over any leases, licenses, permits, rights-of-way, operating plans, other land use authorizations, or reclamation obligations applicable to the relinquished Federal mining claim on the date of conveyance.''

FINAL PRIORITIZATION OF STATE SELECTIONS

Pub. L. 108–452, title IV, § 404, Dec. 10, 2004, 118 Stat. 3593, provided that:

''(a) FILING OF FINAL PRIORITIES.—

''(1) IN GENERAL.—The State [of Alaska] shall, not later than the date that is 4 years after the date of enactment of this Act [Dec. 10, 2004], in accordance with section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)), file final priorities with the Secretary [of the Interior] for all land grant entitlements to the State which remain unsatisfied on the date of the filing.

''(2) RANKING.—All selection applications on file with the Secretary on the date specified in paragraph (1) shall—

''(A) be ranked on a Statewide basis in order of priority; and

''(B) include an estimate of the acreage included in each selection.

''(3) INCLUSIONS.—The State shall include in the prioritized list land which has been top-filed under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)).

''(4) ACREAGE LIMITATION.—

''(A) IN GENERAL.—Acreage for top-filings shall not be counted against the 125 percent limitation established under section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)).

''(B) RELINQUISHMENT.—

''(i) IN GENERAL.—The State shall relinquish any selections that exceed the 125 percent limitation.

''(ii) FAILURE TO RELINQUISH.—If the State fails to relinquish a selection under clause (i), the Secretary shall reject the selection.

''(5) LOWER-PRIORITY SELECTIONS.—Notwithstanding the prioritization of selection applications under paragraph (1), if the Secretary reserves sufficient entitlements for the top-filed selections, the Secretary may continue to convey lower-priority selections.

''(b) DEADLINE FOR PRIORITIZATION.—

''(1) IN GENERAL.—The State shall irrevocably prioritize sufficient selections to allow the Secretary to complete transfer of 101,000,000 acres by September 30, 2009.

''(2) REPRIORITIZATION.—Any selections remaining after September 30, 2009, may be reprioritized.

''(c) FINANCIAL ASSISTANCE.—The Secretary may, using amounts made available to carry out this Act [see Short Title of 2004 Amendment note set out under section 1601 of this title], provide financial assistance to other Federal agencies, the State, and Native Corporations and entities to assist in completing the transfer of land by September 30, 2009.''

## § 1636. Alaska land bank

### (a) Establishment; agreements

(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter

into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (d)(1) of this section whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That no lands shall be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7) of this section, and if such owner does not insist on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

**(b) Terms of agreement**

Each agreement referred to in subsection (a) of this section shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(c)], or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in subsection (d)(1) of this section shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions in paragraph (1) of this subsection. Except as provided in (3)[1] of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands.

(3) If the surface landowner so consents, such lands may be made available for local or other recreational use: *Provided*, That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) of this section shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner—

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

**(c) Benefits to private landowners**

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control, resource and land use planning, and the protec-

[1] So in original. Probably should be ''paragraph (3)''.

tion, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties, so long as the landowner is in compliance with the agreement.

(2) The provision of section 21(e) of the Alaska Native Claims Settlement Act [43 U.S.C. 1620(e)] shall apply to all lands which are subject to an agreement made pursuant to this section so long as the parties to the agreement are in compliance therewith.

**(d) Automatic protections for lands conveyed pursuant to Alaska Native Claims Settlement Act**

(1)(A) Notwithstanding any other provision of law or doctrine of equity, all land and interests in land in Alaska conveyed by the Federal Government pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual or Native Corporation or subsequently reconveyed by a Native Corporation pursuant to section 39 of that Act [43 U.S.C. 1629e] to a Settlement Trust or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of the Alaska Native Claims Settlement Act [43 U.S.C. 1621(f)] or section 3192(h) of title 16 or other applicable law shall be exempt, so long as such land and interests are not developed or leased or sold to third parties from—

(i) adverse possession and similar claims based upon estoppel;

(ii) real property taxes by any governmental entity;

(iii) judgments resulting from a claim based upon or arising under—

(I) title 11 or any successor statute,

(II) other insolvency or moratorium laws, or

(III) other laws generally affecting creditors' rights;

(iv) judgments in any action at law or in equity to recover sums owed or penalties incurred by a Native Corporation or Settlement Trust or any employee, officer, director, or shareholder of such corporation or trust, unless this exemption is contractually waived prior to the commencement of such action; and

(v) involuntary distributions or conveyances related to the involuntary dissolution of a Native Corporation or Settlement Trust.

(B) Except as otherwise provided[2] specifically provided, the exemptions described in subparagraph (A) shall apply to any claim or judgment existing on or arising after February 3, 1988.

(2) DEFINITIONS.—(A) For purposes of this subsection, the term—

(i) ''Developed'' means a purposeful modification of land, or an interest in land, from its original state that effectuates a condition of gainful and productive present use without further substantial modification. Any such modification shall be performed by the Native individual or Native Corporation. Surveying, construction of roads, providing utilities, or other similar actions, which are normally considered to be component parts of the development process but do not create the condition described in the preceding sentence, shall not constitute a developed state within the meaning of this clause. In order to terminate the exemptions listed in paragraph (1), land, or an interest in land, must be developed for purposes other than exploration, and the exemptions will be terminated only with respect to the smallest practicable tract actually used in the developed state. Any lands previously developed by third-party trespassers shall not be considered to have been developed.;[3]

(ii) ''Exploration'' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources; and

(iii) ''Leased'' means subjected to a grant of primary possession entered into for a gainful purpose with a determinable fee remaining in the hands of the grantor. With respect to a lease that conveys rights of exploration and development, the exemptions listed in paragraph (1) shall continue with respect to that portion of the leased tract that is used solely for the purposes of exploration.

(B) For purposes of this subsection—

(i) land shall not be considered developed solely as a result of—

(I) the construction, installation, or placement upon such land of any structure, fixture, device, or other improvement intended to enable, assist, or otherwise further subsistence uses or other customary or traditional uses of such land, or

(II) the receipt of fees related to hunting, fishing, and guiding activities conducted on such land;

(ii) land upon which timber resources are being harvested shall be considered developed only during the period of such harvest and only to the extent that such land is integrally related to the timber harvesting operation;

(iii) land subdivided by a State or local platting authority on the basis of a subdivision plat submitted by the holder of the land or its agent, shall be considered developed on the date an approved subdivision plat is recorded by such holder or agent unless the subdivided property is a remainder parcel; and

(iv) lands or interest in lands shall not be considered developed or leased or sold to a third party as a result of an exchange or conveyance of such land or interest in land between or among Native Corporations and trusts, partnerships, corporations, or joint ventures, whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.

(3) ACTION BY A TRUSTEE.—(A) Except as provided in this paragraph and in section 14(c)(3) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(c)(3)] no trustee, receiver, or custodian vested pursuant to applicable Federal or State law with a right, title, or interest of a Native individual or Native Corporation shall—

(i) assign or lease to a third party,

(ii) commence development or use of, or

[2] So in original. The word ''provided'' probably should not appear.

[3] So in original. The period probably should not appear.

(iii) convey to a third party,

any right, title, or interest in any land, or interests in land, subject to the exemptions described in paragraph (1).

(B) The prohibitions of subparagraph (A) shall not apply—

(i) when the actions of such trustee, receiver, or custodian are for purposes of exploration or pursuant to a judgment in law or in equity (or arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1606(i) or 1613(c)];

(ii) to any land, or interest in land, which has been—

(I) developed or leased prior to the vesting of the trustee, receiver, or custodian with the right, title, or interest of the Native Corporation; or

(II) expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement; or

(iii) to actions by any trustee whose right, title, or interest in land or interests in land arises pursuant to an agreement between or among Native Corporations and trusts, partnerships, or joint ventures whose beneficiaries, partners, shareholders, or joint venturers are Native Corporations.

(4) EXCLUSIONS, REATTACHMENT OF EXEMPTIONS.—(A) The exemptions listed in paragraph (1) shall not apply to any land, or interest in land, which is—

(i) developed or leased or sold to a third party;

(ii) held by a Native Corporation in which neither—

(I) the Settlement Common Stock of the corporation,

(II) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock, nor

(III) the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives,

represents a majority of either the total equity of the corporation or the total voting power of the corporation for the purposes of electing directors; or

(iii) held by a Settlement Trust with respect to which any of the conditions set forth in section 39 of the Alaska Native Claims Settlement Act [43 U.S.C. 1629e] have been violated.

(B) The exemptions described in clauses (iii), (iv), and (v) of paragraph (1)(A) shall not apply to any land, or interest in land—

(i) to the extent that such land or interest is expressly pledged as security for any loan or expressly committed to any commercial transaction in a valid agreement, and

(ii) to the extent necessary to enforce a judgment in any action at law or in equity (or any arbitration award) arising out of any claim made pursuant to section 7(i) or section 14(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1606(i) or 1613(c)].

(C) If the exemptions listed in paragraph (1) are terminated with respect to land, or an interest in land, as a result of development (or a lease to a third party), and such land, or interest in land, subsequently reverts to an undeveloped state (or the third-party lease is terminated), then the exemptions shall again apply to such land, or interest in land, in accordance with the provisions of this subsection.

(5) TAX RECAPTURE UPON SUBDIVISION PLAT RECORDATION.—(A) Upon the recordation with an appropriate government authority of an approved subdivision plat submitted by, or on behalf of, a Native individual, Native Corporation, or Settlement Trust with respect to land described in paragraph (1), such individual, corporation, or trust shall pay in accordance with this paragraph all State and local property taxes on the smallest practicable tract integrally related to the subdivision project that would have been incurred by the individual, corporation, or trust on such land (excluding the value of subsurface resources and timber) in the absence of the exemption described in paragraph (1)(A)(ii) during the thirty months prior to the date of the recordation of the plat.

(B) State and local property taxes specified in subparagraph (A) of this paragraph (together with interest at the rate of 5 per centum per annum commencing on the date of recordation of the subdivision plat) shall be paid in equal semi-annual installments over a two-year period commencing on the date six months after the date of recordation of the subdivision plat.

(C) At least thirty days prior to final approval of a plat of the type described in subparagraph (A), the government entity with jurisdiction over the plat shall notify the submitting individual, corporation, or trust of the estimated tax liability that would be incurred as a result of the recordation of the plat at the time of final approval.

(6) SAVINGS.—(A) No provision of this subsection shall be construed to impair, or otherwise affect, any valid contract or other obligation that was entered into prior to February 3, 1988.

(B) Enactment of this subsection shall not affect any real property tax claim in litigation on February 3, 1988.

**(e) Condemnation**

All land subject to an agreement made pursuant to subsection (a) of this section and all land, and interests in land, conveyed or subsequently reconveyed pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual, Native Corporation, or Settlement Trust shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law.

**(f) Existing contracts**

Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to December 2, 1980, or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

**(g) State jurisdiction**

Except as expressly provided in subsection (d) of this section, no provision of this section shall

be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(Pub. L. 96–487, title IX, § 907, Dec. 2, 1980, 94 Stat. 2444; Pub. L. 100–241, § 11, Feb. 3, 1988, 101 Stat. 1806; Pub. L. 105–333, §§ 1, 2, Oct. 31, 1998, 112 Stat. 3129.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsecs. (d)(1)(A) and (e), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

This Act, referred to in subsec. (e), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

AMENDMENTS

1998—Subsec. (d)(1)(A). Pub. L. 105–333, § 1(a), in introductory provisions, inserted ''or conveyed to a Native Corporation pursuant to an exchange authorized by section 22(f) of the Alaska Native Claims Settlement Act or section 3192(h) of title 16 or other applicable law'' after ''Settlement Trust''.

Subsec. (d)(2)(A)(i). Pub. L. 105–333, § 2(3), which directed the amendment of cl. (i) by adding ''Any lands previously developed by third-party trespassers shall not be considered to have been developed.'' without specifying where the language was to be added, was executed by adding the language before the semicolon at the end to reflect the probable intent of Congress.

Pub. L. 105–333, § 2(1), (2), inserted ''Any such modification shall be performed by the Native individual or Native Corporation.'' after ''substantial modification.'' and inserted a period after ''developed state'' the second place it appeared.

Subsec. (d)(2)(B)(iv). Pub. L. 105–333, § 1(b), added cl. (iv).

Subsec. (d)(3)(B)(iii). Pub. L. 105–333, § 1(c), added cl. (iii).

1988—Subsec. (a)(1). Pub. L. 100–241, § 11(1), (2), substituted ''subsection (d)(1) of this section'' for ''subsection (c)(2) of this section'' and ''no lands shall be included'' for ''lands not owned by landowners described in subsection (c)(2) of this section shall not be included''.

Subsec. (b)(1). Pub. L. 100–241, § 11(1), substituted ''subsection (d)(1) of this section'' for ''subsection (c)(2) of this section''.

Subsec. (c). Pub. L. 100–241, § 11(3), amended subsec. (c) generally, changing structure of subsection from one consisting of introductory provisions and four numbered paragraphs to one consisting of two numbered paragraphs.

Pub. L. 100–241, § 11(1), substituted ''subsection (d)(1) of this section'' for ''subsection (c)(2) of this section'' in pars. (3) and (4)(A).

Subsec. (d). Pub. L. 100–241, § 11(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (d)(1) of this section shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], or sections 1631 and 1632 of this title for a period of three years from the date of conveyance or December 2, 1980, whichever is later: *Provided*, That this subsection shall not apply to any lands which on December 2, 1980, are the subject of a mortgage, pledge or other encumbrance.''

Pub. L. 100–241, § 11(1), substituted ''subsection (d)(1) of this section'' for ''subsection (c)(2) of this section''.

Subsec. (e). Pub. L. 100–241, § 11(3), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The provisions of section 21(e) of the Alaska Native Claims Settlement Act [43 U.S.C. 1620(e)] shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.''

Subsec. (g). Pub. L. 100–241, § 11(4), added subsec. (g).

### § 1637. Use of protraction diagrams

With the agreement of the party to whom a patent is to be issued under this chapter, or the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this chapter or the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram.

(Pub. L. 96–487, title IX, § 909, Dec. 2, 1980, 94 Stat. 2447.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

### § 1638. National Environmental Policy Act

The National Environmental Policy Act of 1969 (83 Stat. 852) [42 U.S.C. 4321 et seq.] shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(h)(3)].

(Pub. L. 96–487, title IX, § 910, Dec. 2, 1980, 94 Stat. 2447.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in text, 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 Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

### § 1639. Construction with Alaska Native Claims Settlement Act

Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Set-

tlement Act [43 U.S.C. 1601 et seq.] are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

(Pub. L. 96–487, title XIV, § 1412, Dec. 2, 1980, 94 Stat. 2498.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

The Alaska Native Claims Settlement Act, referred to in cl. (i), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

CODIFICATION

Section was not enacted as part of title IX of Pub. L. 96–487 which comprises this chapter.

### § 1640. Relinquishment of selections partly within conservation units

Whenever a valid State or Native selection is partly in and partly out of the boundary of a conservation system unit, notwithstanding any other provision of law to the contrary, the State or any Native Corporation may relinquish its rights in any portion of any validly selected Federal land, including land underneath waters, which lies within the boundary of the conservation system unit. Upon relinquishment, the Federal land (including land underneath waters) so relinquished within the boundary of the conservation system unit shall become, and be administered as, a part of the conservation system unit. The total land entitlement of the State or Native Corporation shall not be affected by such relinquishment. In lieu of the lands and waters relinquished by the State, the State may select pursuant to the Alaska Statehood Act as amended by this Act, an equal acreage of other lands available for such purpose. The Native Corporation may retain an equal acreage from overselection lands on which selection applications were otherwise properly and timely filed. A relinquishment pursuant to this section shall not invalidate an otherwise valid State or Native Corporation land selection outside the boundaries of the conservation system unit, on the grounds that, after such relinquishment, the remaining portion of the land selection no longer meets applicable requirements of size, compactness, or contiguity, or that the portion of the selection retained immediately outside the conservation system unit does not follow section lines along the boundary of the conservation system unit. The validity of the selection outside such boundary shall not be adversely affected by the relinquishment.

(Pub. L. 96–487, title XIV, § 1415, Dec. 2, 1980, 94 Stat. 2499.)

REFERENCES IN TEXT

The Alaska Statehood Act as amended by this Act, referred to in text, is Pub. L. 85–508, July 7, 1958, 72 Stat. 339 as amended by Pub. L. 96–487, Dec. 2, 1980, 96 Stat. 2371, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

This Act, referred to in text, is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

CODIFICATION

Section was not enacted as part of title IX of Pub. L. 96–487 which comprises this chapter.

### § 1641. Conveyances to Village Corporations

#### (a) Optional procedure

The provisions of this section shall be applicable only to the conveyance of Federal lands described herein to a Native Corporation which within one hundred and eighty days after December 2, 1980, or the date of eligibility determination, whichever is later, files a document with the Secretary setting forth its election to receive conveyance pursuant to this section.

#### (b) "Core" townships, etc.

(1)(A) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), 14(b), or 22(*l*) of the Alaska Native Claims Settlement Act [43 U.S.C. 1611(a), 1613(a), 1613(b), or 1621(*l*)], subject to valid existing rights and section 1633(a) of this title, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act [43 U.S.C. 1610 or 1615] and which did not elect to acquire a former reserve under section 19(b) of such Act [43 U.S.C. 1618(b)], all of the right, title, and interest of the United States in and to the surface estate in the public lands, as defined in such Act [43 U.S.C. 1601 et seq.], in the township or townships withdrawn pursuant to section 11(a)(1) or 16(a) of such Act [43 U.S.C. 1610(a)(1) or 1615(a)] in which all or any part of such Village is located. As used in this paragraph the term ''Native Village'' has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1602(c)].

(B) Where two or more Village Corporations are entitled to the same land by virtue of the same township or townships embracing all or part of the Native Villages, the conveyance made by paragraph (A) shall not be effective as to such lands until an arbitration decision or other binding agreement between or among the Corporations is filed with and published by the Secretary. Within thirty days of receipt of such decision or agreement, the Secretary shall publish notice of the decision or agreement in the Federal Register. Effective with such publication, title to the lands conveyed by subparagraph (A) shall vest in the Village Corporation as specified in the decision or agreement. For purposes of section 1632 of this title, until title vests in the Village Corporation pursuant to this subparagraph, the Secretary shall consider the entire acreage involved chargeable to each Corporation's entitlement.

(2) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), or 22(*l*) of the Alaska Native Claims Settlement Act [43 U.S.C. 1611(a), 1613(a), or 1621(*l*)], subject to valid existing rights and

section 1633(a) of this title, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 of such Act [43 U.S.C. 1610], and which did not elect to acquire a former reserve under section 19(b) of such Act [43 U.S.C. 1618(b)], all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(2) of such Act [43 U.S.C. 1610(a)(2)] in which all or any part of such village is located: *Provided*, That any such land reserved to or selected by the State of Alaska under the Acts of March 4, 1915 (38 Stat. 1214), as amended, January 21, 1929 (45 Stat. 1091), as amended, or July 28, 1956 (70 Stat. 709), and lands selected by the State which have been tentatively approved to the State under section 6(g) of the Alaska Statehood Act and as to which the State, prior to December 18, 1971, had conditionally granted title to, or contracts to purchase, the surface estate to third parties, including cities and boroughs within the State, and such reservations, selections, grants, and contracts had not expired or been relinquished or revoked by December 2, 1980, shall not be conveyed by operation of this paragraph: *And provided further*, That the provisions of subparagraph (1)(B) of this subsection shall apply to the conveyances under this paragraph.

(3) Subject to valid existing rights and section 1633(a) of this title, there is hereby conveyed to and vested in each Village Corporation which, by December 2, 1980, is determined by the Secretary to be eligible under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1618(b)], all of the right, title, and interest of the United States in and to the estates in a reserve, as such reserve existed on December 18, 1971, which was set aside for the use or benefit of the stockholders or members of such Corporation before December 18, 1971. Nothing in this paragraph shall apply to the Village Corporation for the Native village of Klukwan, which Corporation shall receive those rights granted to it by the Act of January 2, 1976 (Public Law 94–204) as amended by the Act of October 4, 1976 (Public Law 94–456).

(4) Subject to valid existing rights and section 1633(a) of this title, and except where such lands are within a National Wildlife Refuge or the National Petroleum Reserve—Alaska, for which the Regional Corporation obtains in-lieu rights pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act [43 U.S.C. 1611(a)(1)], there is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraphs (1) and (2) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(f)] to receive the subsurface estate corresponding to such surface estate, all of the right, title, and interest of the United States in and to such subsurface estate.

**(c) Documents**

As soon as possible after December 2, 1980, the Secretary shall issue to each Native Corporation referred to in subsection (b) of this section interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of the filing of a document of election described in subsection (a) of this section, notwithstanding any delay in the issuance of the interim conveyances or patents.

**(d) Reconveyances; disputes**

A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(c)] shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (c) of this section or under such Act [43 U.S.C. 1601 et seq.]. For purposes of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act [43 U.S.C. 1613(a), 1613(b), 1613(f), and 1618(b)] and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act [43 U.S.C. 1611(e)] pertaining to disputes over land selection rights and the boundaries of Village Corporations.

**(e) Existing rights**

All conveyances made by operation of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] as if such conveyances or patents had been made or issued pursuant to that Act.

**(f) Easements**

For a period of one year from December 2, 1980, the Secretary may identify and issue a decision to reserve in the patent those easements, pursuant to section 17(b)(3) of the Alaska Native Claims Settlement Act, which are described in section 17(b)(1) of such Act on lands conveyed by this section, but the Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably necessary and he shall be guided by the principles of section 1633 of this title. Upon the finality of the decision so issued, such easements shall be reserved in the conveyance document or documents issued by the Secretary as required by this section.

**(g) "Native Corporation" defined**

For purposes of this section, the term ''Native Corporation'' means Village Corporations and Regional Corporations.

(Pub. L. 96–487, title XIV, §1437, Dec. 2, 1980, 94 Stat. 2546.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsecs. (b)(1)(A), (3), (d), and (e), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of this title. Section 17(b) of the Act was classified to section 1616(b) of this title and was omitted from the Code. For complete classification of this Act to the Code, see Short

Title note set out under section 1601 of this title and Tables.

Act of March 4, 1915, as amended, referred to in subsec. (b)(2), is act Mar. 4, 1915, ch. 181, 38 Stat. 1214, as amended, which enacted section 353 of Title 48, Territories and Insular Possessions, and a provision set out as a note under section 852 of this title. Section 353 of Title 48 was repealed by Pub. L. 85–508, § 6(k), July 7, 1958, 72 Stat. 343. For complete classification of this Act to the Code, see Tables.

Act of January 21, 1929, as amended, referred to in subsec. (b)(2), is act Jan. 21, 1929, ch. 92, 45 Stat. 1091, as amended, which is set out as a note under section 852 of this title. For complete classification of this Act to the Code, see Tables.

Act July 28, 1956, referred to in subsec. (b)(2), is act July 28, 1956, ch. 772, 70 Stat. 709, as amended. For complete classification of this Act to the Code, see Tables.

Section 6(g) of the Alaska Statehood Act, referred to in subsec. (b)(2), is section 6(g) of Pub. L. 85–508, July 7, 1948, 72 Stat. 339, which is set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

Act of January 2, 1976 (Public Law 94–204) as amended by the Act of October 4, 1976 (Public Law 94–456), referred to in subsec. (b)(3), is Pub. L. 94–204, Jan. 2, 1976, 89 Stat. 1145, as amended, which enacted sections 1625 to 1627 of this title, amended sections 1615, 1616, 1620, and 1621 of this title, and enacted provisions set out as notes under sections 1604, 1605, 1611, 1613, 1618, and 1625 of this title, as amended by Pub. L. 94–456, Oct. 4, 1976, 90 Stat. 1934, which amended section 1615 of this title and provisions set out as notes under section 1611 of this title. For complete classification of these Acts to the Code, see Tables.

This title, referred to in subsec. (d), is title XIV of Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2491, which enacted sections 1639 to 1641 of this title, amended sections 1602, 1606, 1607, 1611, 1613, 1620, and 1621 of this title, enacted provisions set out as notes under sections 1605, 1613, and 1618 of this title, and amended provisions set out as notes under sections 1611 and 1613 of this title. For complete classification of title XIV to the Code, see Tables.

This Act, referred to in subsec. (d), is Pub. L. 96–487, Dec. 2, 1980, 94 Stat. 2371, as amended, known as the Alaska National Interest Lands Conservation Act. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of Title 16, Conservation, and Tables.

CODIFICATION

Section was not enacted as part of title IX of Pub. L. 96–487 which comprises this chapter.

### § 1642. Land conveyances

Solely for the purpose of bringing claims that arise from the discharge of oil, the Congress confirms that all right, title, and interest of the United States in and to the lands validly selected pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by Alaska Native corporations are deemed to have vested in the respective corporations as of March 23, 1989. This section shall take effect with respect to each Alaska Native corporation only upon its irrevocable election to accept an interim conveyance of such land and notice of such election has been formally transmitted to the Secretary of the Interior.

(Pub. L. 96–487, title XIV, § 1438, as added Pub. L. 101–380, title VIII, § 8301, Aug. 18, 1990, 104 Stat. 572.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in text, is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

## CHAPTER 34—TRANS-ALASKA PIPELINE

Sec.
1651. Congressional findings and declaration.
1652. Authorizations for construction.
1653. Liability for damages.
1654. Antitrust laws.
1655. Roads and airports.
1656. Civil penalties.

### § 1651. Congressional findings and declaration

The Congress finds and declares that:

(a) The early development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest because of growing domestic shortages and increasing dependence upon insecure foreign sources.

(b) The Department of the Interior and other Federal agencies, have, over a long period of time, conducted extensive studies of the technical aspects and of the environmental, social, and economic impacts of the proposed trans-Alaska oil pipeline, including consideration of a trans-Canada pipeline.

(c) The earliest possible construction of a trans-Alaska oil pipeline from the North Slope of Alaska to Port Valdez in that State will make the extensive proven and potential reserves of low-sulfur oil available for domestic use and will best serve the national interest.

(d) A supplemental pipeline to connect the North Slope with a trans-Canada pipeline may be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

(Pub. L. 93–153, title II, § 202, Nov. 16, 1973, 87 Stat. 584.)

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–380, title VIII, § 8001, Aug. 18, 1990, 104 Stat. 564, provided that: "This title [enacting sections 1642 and 1656 of this title, amending sections 1350 and 1653 of this title and section 3145 of Title 16, Conservation, and enacting provisions set out as notes under this section and section 1653 of this title] may be cited as the 'Trans-Alaska Pipeline System Reform Act of 1990'."

SHORT TITLE

Section 201 of title II of Pub. L. 93–153 provided that: "This title [enacting this chapter] may be cited as the 'Trans-Alaska Pipeline Authorization Act'."

SEPARABILITY

Section 411 of Pub. L. 93–153 provided that: "If any provision of this Act [enacting this chapter, section 1456a of this title, and section 3512 of Title 44, Public Printing and Documents, amending section 1608 of this title, sections 45, 46, 53, and 56 of Title 15, Commerce and Trade, section 185 of Title 30, Mineral Lands and Mining, section 3502 of Title 44, and section 391a of former Title 46, Shipping, and enacting provisions set out as notes under sections 1608 and 1651 of this title,

section 1904 of Title 12, Banks and Banking, section 45 of Title 15, section 791a of Title 16, Conservation, and section 1221 of Title 33, Navigation and Navigable Waters] or the applicability thereof is held invalid the remainder of this Act shall not be affected thereby.''

PRESIDENTIAL TASK FORCE

Pub. L. 101–380, title VIII, § 8103, Aug. 18, 1990, 104 Stat. 567, established a Presidential Task Force on the Trans-Alaska Pipeline System, to conduct an audit of the Trans-Alaska Pipeline System and make recommendations to the President, Congress, and the Governor of Alaska, authorized appropriations for the Task Force, and required it to transmit its final report to the President, Congress, and the Governor no later than 2 years after the date on which funding was made available.

NORTH SLOPE CRUDE OIL; REPORT ON EQUITABLE ALLOCATION

Pub. L. 94–586, § 18, Oct. 22, 1976, 90 Stat. 2916, directed that the President, within 6 months of Oct. 22, 1976, determine special expediting procedures necessary to insure the equitable allocation of North Slope crude oil to the Northern Tier States of Washington, Oregon, Idaho, Montana, Illinois, Indiana, and Idaho to carry out the provisions of section 410 of Pub. L. 93–153 [set out below], and to report his findings to Congress, such report to include a statement demonstrating the impact that the delivery system would have on reducing the dependency of New England and the Middle Atlantic States on foreign oil imports.

TRANS-CANADA PIPELINE; NEGOTIATIONS WITH CANADA; FEASIBILITY STUDY

Title III (§§ 301–303) of Pub. L. 93–153 authorized the President to enter into negotiations with the Government of Canada to determine Canadian willingness to permit construction of pipelines or other transportation systems across its territory to bring gas and oil from Alaska's North Slope to the United States; the need for intergovernmental agreements to protect interests of any parties involved with construction, operation, and maintenance of such natural gas or oil transportation systems; terms and conditions for construction across Canadian territory; desirability of joint studies to insure environmental protection, reduce regulatory uncertainty, and insure meeting energy requirements; quantity of oil and gas for which Canada would guarantee transit; and acquisition of other energy sources so as to make unnecessary the shipment of oil from the Alaska pipeline by tanker into the Puget Sound area. The President was to report to Congress on actions taken and recommendations for further action. In addition, the Secretary of the Interior was to investigate, and to report to Congress within 2 years of Nov. 16, 1973, as to the feasibility of oil or gas pipelines from the North Slope of Alaska to connect with a pipeline through Canada that would deliver oil or gas to United States markets. Nothing in title III was to limit the authority of the Secretary or any other Federal official to grant a gas or oil pipeline right-of-way or permit, which that official was otherwise authorized by law to grant.

EXCLUSION OF PERSONS FROM TRANS-ALASKA PIPELINE ACTIVITIES ON BASIS OF RACE, CREED, COLOR, NATIONAL ORIGIN, OR SEX PROHIBITED

Section 403 of Pub. L. 93–153 provided that: ''The Secretary of the Interior shall take such affirmative action as he deems necessary to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving, or participating in any activity conducted under, any permit, right-of-way, public land order, or other Federal authorization granted or issued under title II [this chapter]. The Secretary of the Interior shall promulgate such rules as he deems necessary to carry out the purposes of this subsection and may enforce this subsection, and any rules promulgated under this subsection, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964 [section 2000d et seq. of Title 42, The Public Health and Welfare].''

EQUITABLE ALLOCATION OF NORTH SLOPE CRUDE OIL

Section 410 of Pub. L. 93–153 provided that: ''The Congress declares that the crude oil on the North Slope of Alaska is an important part of the Nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to insure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States.''

## § 1652. Authorizations for construction

### (a) Congressional declaration of purpose

The purpose of this chapter is to insure that, because of the extensive governmental studies already made of this project and the national interest in early delivery of North Slope oil to domestic markets, the trans-Alaska oil pipeline be constructed promptly without further administrative or judicial delay or impediment. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made and in limiting judicial review of the actions taken pursuant thereto.

### (b) Issuance, administration, and enforcement of rights-of-way, permits, leases, and other authorizations

The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972. The route of the pipeline may be modified by the Secretary to provide during construction greater environmental protection.

### (c) Applicability of statutes governing rights-of-way for pipelines through Federal lands; other statutory terms and conditions; waiver of procedural requirements; supersedure of administrative authorizations for construction

Rights-of-way, permits, leases, and other authorizations issued pursuant to this chapter by the Secretary shall be subject to the provisions of section 185 of title 30, as amended by Pub. L. 93–153 (except the provisions of subsections (h)(1), (k), (q), (w)(2), and (x)); all authorizations issued by the Secretary and other Federal officers and agencies pursuant to this chapter shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this chapter had not been enacted, and they may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accom-

plish the purposes of this chapter. The direction contained in subsection (b) of this section shall supersede the provisions of any law or regulation relating to an administrative determination as to whether the authorizations for construction of the trans-Alaska oil pipeline shall be issued.

**(d) National Environmental Policy Act of 1969 bypassed; issuance of authorizations for construction and operation not to be subject to judicial review; time limits on charges of invalidity or unconstitutionality; jurisdiction; hearings; review**

The actions taken pursuant to this chapter which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following November 16, 1973, and claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this chapter, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after November 16, 1973. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.

**(e) Amendment or modification of rights-of-way, permits, leases, or other authorizations**

The Secretary of the Interior and the other Federal officers and agencies are authorized at any time when necessary to protect the public interest, pursuant to the authority of this section and in accordance with its provisions, to amend or modify any right-of-way, permit, lease, or other authorization issued under this chapter.

(Pub. L. 93–153, title II, § 203, Nov. 16, 1973, 87 Stat. 584; Pub. L. 98–620, title IV, § 402(46), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 100–352, § 6(c), June 27, 1988, 102 Stat. 663.)

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 (section 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.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–352 amended last sentence generally. Prior to amendment, last sentence read as follows: "Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States."

1984—Subsec. (d). Pub. L. 98–620 struck out provision that any such proceeding had to be assigned for hearing at the earliest possible date, had to take precedence over all other matters pending on the docket of the district court at that time, and had to be expedited in every way by such court.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–352 effective ninety days after June 27, 1988, except that such amendment not to apply to cases pending in Supreme Court on such effective date or affect right to review or manner of reviewing judgment or decree of court which was entered before such effective date, see section 7 of Pub. L. 100–352, set out as a note under section 1254 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

## § 1653. Liability for damages

**(a) Activities along or in vicinity of pipeline right-of-way; strict liability; limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska**

(1) Except when the holder of the pipeline right-of-way granted pursuant to this chapter can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused solely by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to $350,000,000 for any one incident, and the holders of the right-of-way or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of $350,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the

damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing of, and determination of, a claim under this subsection.

(5) Where the State of Alaska is the holder of a right-of-way or permit under this chapter, the State shall not be subject to the provisions of this subsection, but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to this subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

**(b) Control and removal of pollutants at expense of right-of-way holder**

If any area in the State of Alaska within or without the right-of-way or permit area granted under this chapter is polluted by any activities related to the Trans-Alaska Pipeline System, including operation of the terminal, conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the Secretary or any other Federal or State officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

(Pub. L. 93–153, title II, §204, Nov. 16, 1973, 87 Stat. 586; Pub. L. 101–380, title VIII, §§8101, 8102(a)(1), (4), (b)–(e), Aug. 18, 1990, 104 Stat. 565–567.)

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101–380, §8101(a), substituted ''caused solely by'' for ''caused by''.

Subsec. (a)(2). Pub. L. 101–380, §8101(b), substituted ''$350,000,000'' for ''$50,000,000'' in two places.

Subsec. (b). Pub. L. 101–380, §8101(c), inserted ''in the State of Alaska'' after ''any area'', ''related to the Trans-Alaska Pipeline System, including operation of the terminal,'' after ''any activities'', and ''or State'' after ''any other Federal''.

Subsec. (c). Pub. L. 101–380, §8102(a)(1), struck out subsec. (c) which related to liability for discharges of oil loaded at terminal facilities and to establishment of Trans-Alaska Pipeline Liability Fund.

Subsec. (c)(2). Pub. L. 101–380, §8102(b), substituted ''caused solely by'' for ''caused by''.

Subsec. (c)(3). Pub. L. 101–380, §8102(d), inserted at end ''The Fund shall expeditiously pay claims under this subsection, including such $14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties.''

Subsec. (c)(4). Pub. L. 101–380, §8102(e), designated existing provisions as par. (A) and added pars. (B) and (C).

Subsec. (c)(5). Pub. L. 101–380, §8102(a)(4), inserted before period at end of second sentence '', except that after August 18, 1990, the amount to be accumulated shall be $100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring prior to August 18, 1990, and administrative costs, whichever is less''.

Subsec. (c)(13), (14). Pub. L. 101–380, §8102(c), added pars. (13) and (14).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

Section 8102(a)(5)(A) of Pub. L. 101–380 provided that: ''The repeal by paragraph (1) [repealing subsec. (c) of this section] shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress [certified July 5, 2000] that—

''(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

''(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

''(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.''

SAVINGS PROVISION

Section 8102(a)(3) of Pub. L. 101–380 provided that: ''The repeal made by paragraph (1) [repealing subsec. (c) of this section] shall have no effect on any right to recover or responsibility that arises from incidents subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) occurring prior to the date of enactment of this Act [Aug. 18, 1990].''

BULK FUEL STORAGE TANKS

Pub. L. 105–277, div. A, §101(g) [title III, §329(a), (b)], Oct. 21, 1998, 112 Stat. 2681–439, 2681–470, provided that:

''(a) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the remainder of the balance in the Trans-Alaska Pipeline Liability Fund that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 (43 U.S.C. 1653 note) after June 16, 1998 shall be used in accordance with this section.

''(b) USE OF INTEREST ONLY.—The interest produced from the investment of the Trans-Alaska Pipeline Liability Fund balance that is transferred and deposited into the Oil Spill Liability Trust Fund under section 8102(a)(2)(B)(ii) of the Oil Pollution Act of 1990 [Pub. L. 101–380] (43 U.S.C. 1653 note) after June 16, 1998 shall be transferred annually by the National Pollution Funds Center to the Denali Commission for a program, to be developed in consultation with the Coast Guard, to repair or replace bulk fuel storage tanks in Alaska which are not in compliance with federal law, including the Oil Pollution Act of 1990 [33 U.S.C. 2701 et seq.], or State law.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections

468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

DISPOSITION OF FUND BALANCE

Section 8102(a)(2) of Pub. L. 101–380, as amended by Pub. L. 105–277, div. A, § 101(g) [title III, § 329(c)], Oct. 21, 1998, 112 Stat. 2681–439, 2681–471, provided that:

''(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the 'TAPS Fund') shall reserve the following amounts in the TAPS Fund—

''(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)); and

''(ii) administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of that Act.

''(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

''(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil, which, except as otherwise provided under article IX, section 15, of the Alaska Constitution, shall be used for the remediation of above-ground storage tanks; and then

''(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

''(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

''(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 [33 U.S.C. 2712] after funding sections 5001 [33 U.S.C. 2731] and 8103 [43 U.S.C. 1651 note] to the extent that funds have not otherwise been provided for the purposes of such sections.''

LIABILITIES OF TRUSTEES OF TAPS FUND

Section 8102(a)(5)(B) of Pub. L. 101–380 provided that: ''Upon the effective date of the repeal pursuant to subparagraph (A) [see Effective Date of 1990 Amendment note above], the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act [43 U.S.C. 1653(c)], but not any existing legal liability.''

PRESERVATION OF RIGHTS AND REMEDIES OF CONTRIBUTORS TO TAPS FUND

Section 8102(a)(6) provided that: ''This subsection [amending this section and enacting provisions set out as notes above] is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the 'Tucker Act').''

## § 1654. Antitrust laws

The grant of a right-of-way, permit, lease, or other authorization pursuant to this chapter shall grant no immunity from the operation of the Federal anti-trust laws.

(Pub. L. 93–153, title II, § 205, Nov. 16, 1973, 87 Stat. 588.)

## § 1655. Roads and airports

A right-of-way, permit, lease, or other authorization granted under section 1652(b) of this title for a road or airstrip as a related facility of the trans-Alaska pipeline may provide for the construction of a public road or airstrip.

(Pub. L. 93–153, title II, § 206, Nov. 16, 1973, 87 Stat. 588.)

## § 1656. Civil penalties

### (a) Penalty

Except as provided in subsection (c)(4) of this section, the Secretary of the Interior may assess and collect a civil penalty under this section with respect to any discharge of oil—

(1) in transit from fields or reservoirs supplying oil to the trans-Alaska pipeline; or

(2) during transportation through the trans-Alaska pipeline or handling at the terminal facilities, that causes damage to, or threatens to damage, natural resources or public or private property.

### (b) Persons liable

In addition to the person causing or permitting the discharge, the owner or owners of the oil at the time the discharge occurs shall be jointly, severally, and strictly liable for the full amount of penalties assessed pursuant to this section, except that the United States and the several States, and political subdivisions thereof, shall not be liable under this section.

### (c) Amount

(1) The amount of the civil penalty shall not exceed $1,000 per barrel of oil discharged.

(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 1321(b) of title 33.

### (d) Procedures

A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia

circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

**(e) State law**

(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.

(Pub. L. 93–153, title II, § 207, as added Pub. L. 101–380, title VIII, § 8202, Aug. 18, 1990, 104 Stat. 571.)

EFFECTIVE DATE

Section applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as a note under section 2701 of Title 33, Navigation and Navigable Waters.

## CHAPTER 35—FEDERAL LAND POLICY AND MANAGEMENT

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SUBCHAPTER I—GENERAL PROVISIONS

### § 1701. Congressional declaration of policy

(a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership, unless as a result of the land use planning procedure provided for in this Act, it is determined that disposal of a particular parcel will serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts;

(3) public lands not previously designated for any specific use and all existing classifications of public lands that were effected by executive action or statute before October 21, 1976, be reviewed in accordance with the provisions of this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decisionmaking;

(6) judicial review of public land adjudication decisions be provided by law;

(7) goals and objectives be established by law as guidelines for public land use planning, and that management be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the department or agency involved, and reserving to the Congress review of disposals in excess of a specified acreage;

(11) regulations and plans for the protection of public land areas of critical environmental concern be promptly developed;

(12) the public lands be managed in a manner which recognizes the Nation's need for domestic sources of minerals, food, timber, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 (84 Stat. 1876, 30 U.S.C. 21a) as it pertains to the public lands; and

(13) the Federal Government should, on a basis equitable to both the Federal and local taxpayer, provide for payments to compensate States and local governments for burdens created as a result of the immunity of Federal lands from State and local taxation.

(b) The policies of this Act shall become effective only as specific statutory authority for their implementation is enacted by this Act or by subsequent legislation and shall then be construed as supplemental to and not in derogation of the purposes for which public lands are administered under other provisions of law.

(Pub. L. 94–579, title I, § 102, Oct. 21, 1976, 90 Stat. 2744.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(1), (3) and (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining and Minerals Policy Act of 1970, referred to in subsec. (a)(12), is Pub. L. 91–631, Dec. 31, 1970, 84 Stat. 1876, which is classified to section 21a of Title 30, Mineral Lands and Mining.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–88, div. A, title V, § 501, Oct. 30, 2009, 123 Stat. 2968, provided that: ''This title [enacting sections 1748a and 1748b of this title] may be cited as the 'Federal Land Assistance, Management, and Enhancement Act of 2009' or 'FLAME Act of 2009'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–409, § 1, Aug. 20, 1988, 102 Stat. 1086, provided that: ''This Act [enacting section 1723 of this title, amending section 1716 of this title and sections 505a, 505b, and 521b of Title 16, Conservation, and enacting provisions set out as notes under sections 751 and 1716 of this title] may be cited as the 'Federal Land Exchange Facilitation Act of 1988'.''

SHORT TITLE

Pub. L. 94–579, title I, § 101, Oct. 21, 1976, 90 Stat. 2744, provided that: ''This Act [see Tables for classification] may be cited as the 'Federal Land Policy and Management Act of 1976'.''

SAVINGS PROVISION

Pub. L. 94–579, title VII, § 701, Oct. 21, 1976, 90 Stat. 2786, provided that:

''(a) Nothing in this Act, or in any amendment made by this Act [see Short Title note above], shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Oct. 21, 1976].

''(b) Notwithstanding any provision of this Act, in the event of conflict with or inconsistency between this Act and the Acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j [1181a et seq., see Tables for classification]) and May 24, 1939 (53 Stat. 753), insofar as they relate to management of timber resources, and disposition of revenues from lands and resources, the latter Acts shall prevail.

''(c) All withdrawals, reservations, classifications, and designations in effect as of the date of approval of this Act shall remain in full force and effect until modified under the provisions of this Act or other applicable law.

''(d) Nothing in this Act, or in any amendments made by this Act, shall be construed as permitting any person to place, or allow to be placed, spent oil shale, overburden, or byproducts from the recovery of other minerals found with oil shale, on any Federal land other than Federal land which has been leased for the recovery of shale oil under the Act of February 25, 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

''(e) Nothing in this Act shall be construed as modifying, revoking, or changing any provision of the Alaska Native Claims Settlement Act (85 Stat. 688, as amended; 43 U.S.C. 1601 et seq.).

''(f) Nothing in this Act shall be deemed to repeal any existing law by implication.

''(g) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

''(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

''(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

''(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two or more States and the Federal Government;

''(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

''(5) as modifying the terms of any interstate compact;

''(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands; or as amending, limiting, or infringing the existing laws providing grants of lands to the States.

''(h) All actions by the Secretary concerned under this Act shall be subject to valid existing rights.

''(i) The adequacy of reports required by this Act to be submitted to the Congress or its committees shall not be subject to judicial review.

''(j) Nothing in this Act shall be construed as affecting the distribution of livestock grazing revenues to local governments under the Granger-Thye Act (64 Stat. 85, 16 U.S.C. 580h), under the Act of May 23, 1908 (35 Stat. 260, as amended; 16 U.S.C. 500), under the Act of March 4, 1913 (37 Stat. 843, as amended; 16 U.S.C. 501), and under the Act of June 20, 1910 (36 Stat. 557).''

SEVERABILITY

Section 707 of Pub. L. 94–579 provided that: ''If any provision of this Act [see Short Title note set out above] or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.''

EXISTING RIGHTS-OF-WAY

Section 706(b) of Pub. L. 94–579 provided that: ''Nothing in section 706(a) [see Tables for classification], except as it pertains to rights-of-way, may be construed as affecting the authority of the Secretary of Agriculture under the Act of June 4, 1897 (30 Stat. 35, as amended, 16 U.S.C. 551); the Act of July 22, 1937 (50 Stat. 525, as amended, 7 U.S.C. 1010–1212); or the Act of September 3, 1954 (68 Stat. 1146, 43 U.S.C. 931c).''

## § 1702. Definitions

Without altering in any way the meaning of the following terms as used in any other statute, whether or not such statute is referred to in, or amended by, this Act, as used in this Act—

(a) The term ''areas of critical environmental concern'' means areas within the public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.

(b) The term ''holder'' means any State or local governmental entity, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under subchapter V of this chapter.

(c) The term ''multiple use'' means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

(d) The term ''public involvement'' means the opportunity for participation by affected citizens in rulemaking, decisionmaking, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance.

(e) The term ''public lands'' means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held for the benefit of Indians, Aleuts, and Eskimos.

(f) The term ''right-of-way'' includes an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purpose listed in subchapter V of this chapter.

(g) The term ''Secretary'', unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term ''sustained yield'' means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.

(i) The term ''wilderness'' as used in section 1782 of this title shall have the same meaning as it does in section 1131(c) of title 16.

(j) The term ''withdrawal'' means withholding an area of Federal land from settlement, sale,

location, or entry, under some or all of the general land laws, for the purpose of limiting activities under those laws in order to maintain other public values in the area or reserving the area for a particular public purpose or program; or transferring jurisdiction over an area of Federal land, other than ''property'' governed by the Federal Property and Administrative Services Act, as amended (40 U.S.C. 472)[1] from one department, bureau or agency to another department, bureau or agency.

(k) An ''allotment management plan'' means a document prepared in consultation with the lessees or permittees involved, which applies to livestock operations on the public lands or on lands within National Forests in the eleven contiguous Western States and which:

(1) prescribes the manner in, and extent to, which livestock operations will be conducted in order to meet the multiple-use, sustained-yield, economic and other needs and objectives as determined for the lands by the Secretary concerned; and

(2) describes the type, location, ownership, and general specifications for the range improvements to be installed and maintained on the lands to meet the livestock grazing and other objectives of land management; and

(3) contains such other provisions relating to livestock grazing and other objectives found by the Secretary concerned to be consistent with the provisions of this Act and other applicable law.

(*l*) The term ''principal or major uses'' includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, outdoor recreation, and timber production.

(m) The term ''department'' means a unit of the executive branch of the Federal Government which is headed by a member of the President's Cabinet and the term ''agency'' means a unit of the executive branch of the Federal Government which is not under the jurisdiction of a head of a department.

(n) The term ''Bureau[2] means the Bureau of Land Management.

(*o*) The term ''eleven contiguous Western States'' means the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

(p) The term ''grazing permit and lease'' means any document authorizing use of public lands or lands in National Forests in the eleven contiguous western States for the purpose of grazing domestic livestock.

(Pub. L. 94–579, title I, § 103, Oct. 21, 1976, 90 Stat. 2745.)

REFERENCES IN TEXT

This Act, referred to in the opening par. and in subsec. (k), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (j), is act June 30, 1949, ch. 288, 63 Stat. 377, which was substantially repealed and restated in chapters 1 to 11 of Title 40, Public Buildings, Property, and Works, and division C of subtitle I of Title 41, Public Contracts, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, which Act enacted Title 40, and Pub. L. 111–350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855, which Act enacted Title 41. For complete classification of this Act to the Code, see Short Title of 1949 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Titles 40 and 41, see Disposition Tables preceding section 101 of Title 40 and section 101 of Title 41.

[1] See References in Text note below.

[2] So in original. Probably should be followed by closing quotation marks.

## § 1703. Cooperative action and sharing of resources by Secretaries of the Interior and Agriculture

In fiscal year 2012 and each fiscal year thereafter, the Secretaries of the Interior and Agriculture, subject to annual review of Congress, may establish programs.[1] involving the land management agencies referred to in this section to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department; and[2] promulgate special rules as needed to test the feasibility of issuing unified permits, applications, and leases. The Secretaries of the Interior and Agriculture may make reciprocal delegations of their respective authorities, duties and responsibilities in support of the ''Service First'' initiative agency-wide to promote customer service and efficiency. Nothing herein shall alter, expand or limit the applicability of any public law or regulation to lands administered by the Bureau of Land Management, National Park Service, Fish and Wildlife Service, or the Forest Service. To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.

(Pub. L. 106–291, title III, § 330, Oct. 11, 2000, 114 Stat. 996; Pub. L. 109–54, title IV, § 428, Aug. 2, 2005, 119 Stat. 555; Pub. L. 111–8, div. E, title IV, § 418, Mar. 11, 2009, 123 Stat. 747; Pub. L. 112–74, div. E, title IV, § 422, Dec. 23, 2011, 125 Stat. 1045.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 2001, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

Section was formerly set out as a note under section 1701 of this title.

AMENDMENTS

2011—Pub. L. 112–74 substituted ''In fiscal year 2012 and each fiscal year thereafter'' for ''In fiscal years 2001 through 2011'' and ''programs.'' for ''pilot programs''.

2009—Pub. L. 111–8 substituted ''2011'' for ''2008''.

2005—Pub. L. 109–54 substituted ''2008'' for ''2005'', struck out ''may pilot test agency-wide joint permitting and leasing programs'' before '', subject to annual review'', inserted ''may establish pilot programs involving the land management agencies referred to in

[1] So in original. The period probably should not appear.

[2] So in original. Probably should be followed by ''may''.

this section to conduct projects, planning, permitting, leasing, contracting and other activities, either jointly or on behalf of one another; may co-locate in Federal offices and facilities leased by an agency of either Department;'' after ''Congress,'', inserted '', National Park Service, Fish and Wildlife Service,'' after ''Bureau of Land Management'', and inserted at end ''To facilitate the sharing of resources under the Service First initiative, the Secretaries of the Interior and Agriculture may make transfers of funds and reimbursement of funds on an annual basis, including transfers and reimbursements for multi-year projects, except that this authority may not be used to circumvent requirements and limitations imposed on the use of funds.''

## SUBCHAPTER II—LAND USE PLANNING AND LAND ACQUISITION AND DISPOSITION

### § 1711. Continuing inventory and identification of public lands; preparation and maintenance

(a) The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resource and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds and manpower are made available, the Secretary shall ascertain the boundaries of the public lands; provide means of public identification thereof including, where appropriate, signs and maps; and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity of such public lands.

(Pub. L. 94–579, title II, § 201, Oct. 21, 1976, 90 Stat. 2747.)

### § 1712. Land use plans

#### (a) Development, maintenance, and revision by Secretary

The Secretary shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands. Land use plans shall be developed for the public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

#### (b) Coordination of plans for National Forest System lands with Indian land use planning and management programs for purposes of development and revision

In the development and revision of land use plans, the Secretary of Agriculture shall coordinate land use plans for lands in the National Forest System with the land use planning and management programs of and for Indian tribes by, among other things, considering the policies of approved tribal land resource management programs.

#### (c) Criteria for development and revision

In the development and revision of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in this and other applicable law;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) rely, to the extent it is available, on the inventory of the public lands, their resources, and other values;

(5) consider present and potential uses of the public lands;

(6) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(7) weigh long-term benefits to the public against short-term benefits;

(8) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(9) to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of other Federal departments and agencies and of the States and local governments within which the lands are located, including, but not limited to, the statewide outdoor recreation plans developed under the Act of September 3, 1964 (78 Stat. 897), as amended [16 U.S.C. 460*l*–4 et seq.], and of or for Indian tribes by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

**(d) Review and inclusion of classified public lands; review of existing land use plans; modification and termination of classifications**

Any classification of public lands or any land use plan in effect on October 21, 1976, is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section. The Secretary may modify or terminate any such classification consistent with such land use plans.

**(e) Management decisions for implementation of developed or revised plans**

The Secretary may issue management decisions to implement land use plans developed or revised under this section in accordance with the following:

(1) Such decisions, including but not limited to exclusions (that is, total elimination) of one or more of the principal or major uses made by a management decision shall remain subject to reconsideration, modification, and termination through revision by the Secretary or his delegate, under the provisions of this section, of the land use plan involved.

(2) Any management decision or action pursuant to a management decision that excludes (that is, totally eliminates) one or more of the principal or major uses for two or more years with respect to a tract of land of one hundred thousand acres or more shall be reported by the Secretary to the House of Representatives and the Senate. If within ninety days from the giving of such notice (exclusive of days on which either House has adjourned for more than three consecutive days), the Congress adopts a concurrent resolution of nonapproval of the management decision or action, then the management decision or action shall be promptly terminated by the Secretary. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the management decision or action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same management decision or action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) Withdrawals made pursuant to section 1714 of this title may be used in carrying out management decisions, but public lands shall be removed from or restored to the operation of the Mining Law of 1872, as amended (R.S. 2318–2352; 30 U.S.C. 21 et seq.) or transferred to another department, bureau, or agency only by withdrawal action pursuant to section 1714 of this title or other action pursuant to applicable law: *Provided*, That nothing in this section shall prevent a wholly owned Government corporation from acquiring and holding rights as a citizen under the Mining Law of 1872.

**(f) Procedures applicable to formulation of plans and programs for public land management**

The Secretary shall allow an opportunity for public involvement and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.

(Pub. L. 94–579, title II, § 202, Oct. 21, 1976, 90 Stat. 2747.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c)(9), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Act of September 3, 1964, as amended, referred to in subsec. (c)(9), is Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, known as the Land and Water Conservation Fund Act of 1965, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

The Mining Law of 1872, as amended, referred to in subsec. (e)(3), is act May 10, 1872, ch. 152, 17 Stat. 91, as amended, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of R.S. §§ 2318–2352, see Tables.

## § 1713. Sales of public land tracts

**(a) Criteria for disposal; excepted lands**

A tract of the public lands (except land in units of the National Wilderness Preservation System, National Wild and Scenic Rivers Systems, and National System of Trails) may be sold under this Act where, as a result of land use planning required under section 1712 of this title, the Secretary determines that the sale of such tract meets the following disposal criteria:

(1) such tract because of its location or other characteristics is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency; or

(2) such tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including, but not limited to, recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

**(b) Conveyance of land of agricultural value and desert in character**

Where the Secretary determines that land to be conveyed under clause (3) of subsection (a) of this section is of agricultural value and is desert in character, such land shall be conveyed either under the sale authority of this section or in accordance with other existing law.

**(c) Congressional approval procedures applicable to tracts in excess of two thousand five hundred acres**

Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if the Congress has not adopted a concurrent resolution stating that such House does not approve of such designation. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the designation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same designation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

**(d) Sale price**

Sales of public lands shall be made at a price not less than their fair market value as determined by the Secretary.

**(e) Maximum size of tracts**

The Secretary shall determine and establish the size of tracts of public lands to be sold on the basis of the land use capabilities and development requirements of the lands; and, where any such tract which is judged by the Secretary to be chiefly valuable for agriculture is sold, its size shall be no larger than necessary to support a family-sized farm.

**(f) Competitive bidding requirements**

Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to, a preference to users, he may sell those lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall give consideration to the following potential purchasers:

(1) the State in which the land is located;

(2) the local government entities in such State which are in the vicinity of the land;

(3) adjoining landowners;

(4) individuals; and

(5) any other person.

**(g) Acceptance or rejection of offers to purchase**

The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (c) of this section, whichever is later, unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this Act or other applicable law.

(Pub. L. 94–579, title II, § 203, Oct. 21, 1976, 90 Stat. 2750.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (g), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

## § 1714. Withdrawals of lands

**(a) Authorization and limitation; delegation of authority**

On and after the effective date of this Act the Secretary is authorized to make, modify, extend, or revoke withdrawals but only in accordance with the provisions and limitations of this section. The Secretary may delegate this with-

drawal authority only to individuals in the Office of the Secretary who have been appointed by the President, by and with the advice and consent of the Senate.

**(b) Application and procedures applicable subsequent to submission of application**

(1) Within thirty days of receipt of an application for withdrawal, and whenever he proposes a withdrawal on his own motion, the Secretary shall publish a notice in the Federal Register stating that the application has been submitted for filing or the proposal has been made and the extent to which the land is to be segregated while the application is being considered by the Secretary. Upon publication of such notice the land shall be segregated from the operation of the public land laws to the extent specified in the notice. The segregative effect of the application shall terminate upon (a) rejection of the application by the Secretary, (b) withdrawal of lands by the Secretary, or (c) the expiration of two years from the date of the notice.

(2) The publication provisions of this subsection are not applicable to withdrawals under subsection (e) hereof.

**(c) Congressional approval procedures applicable to withdrawals aggregating five thousand acres or more**

(1) On and after October 21, 1976, a withdrawal aggregating five thousand acres or more may be made (or such a withdrawal or any other withdrawal involving in the aggregate five thousand acres or more which terminates after such date of approval may be extended) only for a period of not more than twenty years by the Secretary on his own motion or upon request by a department or agency head. The Secretary shall notify both Houses of Congress of such a withdrawal no later than its effective date and the withdrawal shall terminate and become ineffective at the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, if the Congress has adopted a concurrent resolution stating that such House does not approve the withdrawal. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(2) With the notices required by subsection (c)(1) of this section and within three months after filing the notice under subsection (e) of this section, the Secretary shall furnish to the committees—

(1) a clear explanation of the proposed use of the land involved which led to the withdrawal;

(2) an inventory and evaluation of the current natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment, and also the economic impact of the change in use on individuals, local communities, and the Nation;

(3) an identification of present users of the land involved, and how they will be affected by the proposed use;

(4) an analysis of the manner in which existing and potential resource uses are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses, including an economic analysis of such continuation or termination;

(5) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(6) a statement as to whether any suitable alternative sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(7) a statement of the consultation which has been or will be had with other Federal departments and agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(8) a statement indicating the effect of the proposed uses, if any, on State and local government interests and the regional economy;

(9) a statement of the expected length of time needed for the withdrawal;

(10) the time and place of hearings and of other public involvement concerning such withdrawal;

(11) the place where the records on the withdrawal can be examined by interested parties; and

(12) a report prepared by a qualified mining engineer, engineering geologist, or geologist which shall include but not be limited to information on: general geology, known mineral deposits, past and present mineral production, mining claims, mineral leases, evaluation of future mineral potential, present and potential market demands.

**(d) Withdrawals aggregating less than five thousand acres; procedure applicable**

A withdrawal aggregating less than five thousand acres may be made under this subsection by the Secretary on his own motion or upon request by a department or an agency head—

(1) for such period of time as he deems desirable for a resource use; or

(2) for a period of not more than twenty years for any other use, including but not limited to use for administrative sites, location of facilities, and other proprietary purposes; or

(3) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

**(e) Emergency withdrawals; procedure applicable; duration**

When the Secretary determines, or when the Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost, the Secretary notwithstanding the provisions of subsections (c)(1) and (d) of this section, shall immediately make a withdrawal and file notice of such emergency withdrawal with both of those Committees. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed three years and may not be extended except under the provisions of subsection (c)(1) or (d), whichever is applicable, and (b)(1) of this section. The information required in subsection (c)(2) of this subsection shall be furnished the committees within three months after filing such notice.

**(f) Review of existing withdrawals and extensions; procedure applicable to extensions; duration**

All withdrawals and extensions thereof, whether made prior to or after October 21, 1976, having a specific period shall be reviewed by the Secretary toward the end of the withdrawal period and may be extended or further extended only upon compliance with the provisions of subsection (c)(1) or (d) of this section, whichever is applicable, and only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period. The Secretary shall report on such review and extensions to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

**(g) Processing and adjudication of existing applications**

All applications for withdrawal pending on October 21, 1976 shall be processed and adjudicated to conclusion within fifteen years of October 21, 1976, in accordance with the provisions of this section. The segregative effect of any application not so processed shall terminate on that date.

**(h) Public hearing required for new withdrawals**

All new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (e) of this section) shall be promulgated after an opportunity for a public hearing.

**(i) Consent for withdrawal of lands under administration of department or agency other than Department of the Interior**

In the case of lands under the administration of any department or agency other than the Department of the Interior, the Secretary shall make, modify, and revoke withdrawals only with the consent of the head of the department or agency concerned, except when the provisions of subsection (e) of this section apply.

**(j) Applicability of other Federal laws withdrawing lands as limiting authority**

The Secretary shall not make, modify, or revoke any withdrawal created by Act of Congress; make a withdrawal which can be made only by Act of Congress; modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433); or modify, or revoke any withdrawal which added lands to the National Wildlife Refuge System prior to October 21, 1976, or which thereafter adds lands to that System under the terms of this Act. Nothing in this Act is intended to modify or change any provision of the Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)).

**(k) Authorization of appropriations for processing applications**

There is hereby authorized to be appropriated the sum of $10,000,000 for the purpose of processing withdrawal applications pending on the effective date of this Act, to be available until expended.

**(*l*) Review of existing withdrawals in certain States; procedure applicable for determination of future status of lands; authorization of appropriations**

(1) The Secretary shall, within fifteen years of October 21, 1976, review withdrawals existing on October 21, 1976, in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming of (1) all Federal lands other than withdrawals of the public lands administered by the Bureau of Land Management and of lands which, on October 21, 1976, were part of Indian reservations and other Indian holdings, the National Forest System, the National Park System, the National Wildlife Refuge System, other lands administered by the Fish and Wildlife Service or the Secretary through the Fish and Wildlife Service, the National Wild and Scenic Rivers System, and the National System of Trails; and (2) all public lands administered by the Bureau of Land Management and of lands in the National Forest System (except those in wilderness areas, and those areas formally identified as primitive or natural areas or designated as national recreation areas) which closed the lands to appropriation under the Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.) or to leasing under the Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.).

(2) In the review required by paragraph (1) of this subsection, the Secretary shall determine

whether, and for how long, the continuation of the existing withdrawal of the lands would be, in his judgment, consistent with the statutory objectives of the programs for which the lands were dedicated and of the other relevant programs. The Secretary shall report his recommendations to the President, together with statements of concurrence or nonconcurrence submitted by the heads of the departments or agencies which administer the lands. The President shall transmit this report to the President of the Senate and the Speaker of the House of Representatives, together with his recommendations for action by the Secretary, or for legislation. The Secretary may act to terminate withdrawals other than those made by Act of the Congress in accordance with the recommendations of the President unless before the end of ninety days (not counting days on which the Senate and the House of Representatives has adjourned for more than three consecutive days) beginning on the day the report of the President has been submitted to the Senate and the House of Representatives the Congress has adopted a concurrent resolution indicating otherwise. If the committee to which a resolution has been referred during the said ninety day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the Presidential recommendation. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same Presidential recommendation. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) There are hereby authorized to be appropriated not more than $10,000,000 for the purpose of paragraph (1) of this subsection to be available until expended to the Secretary and to the heads of other departments and agencies which will be involved.

(Pub. L. 94–579, title II, § 204, Oct. 21, 1976, 90 Stat. 2751; Pub. L. 103–437, § 16(d)(1), Nov. 2, 1994, 108 Stat. 4594.)

REFERENCES IN TEXT

On and after the effective date of this Act, referred to in subsecs. (a) and (k), probably means on and after the date of enactment of Pub. L. 94–579, which was approved Oct. 21, 1976.

Act of June 8, 1906, referred to in subsec. (j), is act June 8, 1906, ch. 3060, 34 Stat. 225, popularly known as the Antiquities Act of 1906, which is classified generally to sections 431, 432, and 433 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 431 of Title 16 and Tables.

Act of February 27, 1976 (90 Stat. 199; 16 U.S.C. 668dd(a)), referred to in subsec. (j), is Pub. L. 94–223, Feb. 27, 1976, 90 Stat. 199, which amended section 668dd of Title 16. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsec. (j), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining Law of 1872 (17 Stat. 91, as amended; 30 U.S.C. 22 et seq.), referred to in subsec. (*l*)(1), is act May 10, 1972, ch. 152, 17 Stat. 91, as amended. That act was incorporated into the Revised Statutes as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344 to the Code, see Tables.

The Mineral Leasing Act of 1920 (41 Stat. 437, as amended; 30 U.S.C. 181 et seq.), referred to in subsec. (*l*)(1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

AMENDMENTS

1994—Subsec. (e). Pub. L. 103–437, § 16(d)(1)(A), substituted ''Committee on Natural Resources of the House of Representatives or the Committee on Energy and Natural Resources of the Senate'' for ''Committee on Interior and Insular Affairs of either the House of Representatives or the Senate'' and ''both of those Committees'' for ''the Committees on Interior and Insular Affairs of the Senate and the House of Representatives''.

Subsec. (f). Pub. L. 103–437, § 16(d)(1)(B), substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the House of Representatives and the Senate''.

## § 1715. Acquisitions of public lands and access over non-Federal lands to National Forest System units

### (a) Authorization and limitations on authority of Secretary of the Interior and Secretary of Agriculture

Notwithstanding any other provisions of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to the acquisition of access over non-Federal lands to units of the National Forest System, are authorized to acquire pursuant to this Act by purchase, exchange, donation, or eminent domain, lands or interests therein: *Provided*, That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as expanding or limiting the authority of the Secretary of Agriculture to acquire

land by eminent domain within the boundaries of units of the National Forest System.

**(b) Conformity to departmental policies and land-use plan of acquisitions**

Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable departmental land-use plans.

**(c) Status of lands and interests in lands upon acquisition by Secretary of the Interior; transfers to Secretary of Agriculture of lands and interests in lands acquired within National Forest System boundaries**

Except as provided in subsection (e) of this section, lands and interests in lands acquired by the Secretary pursuant to this section or section 1716 of this title shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to section 315 of this title, they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws, rules, and regulations applicable thereto.

**(d) Status of lands and interests in lands upon acquisition by Secretary of Agriculture**

Lands and interests in lands acquired by the Secretary of Agriculture pursuant to this section shall, upon acceptance of title, become National Forest System lands subject to all the laws, rules, and regulations applicable thereto.

**(e) Status and administration of lands acquired in exchange for lands revested in or reconveyed to United States**

Lands acquired by the Secretary pursuant to this section or section 1716 of this title in exchange for lands which were revested in the United States pursuant to the provisions of the Act of June 9, 1916 (39 Stat. 218) or reconveyed to the United States pursuant to the provisions of the Act of February 26, 1919 (40 Stat. 1179), shall be considered for all purposes to have the same status as, and shall be administered in accordance with the same provisions of law applicable to, the revested or reconveyed lands exchanged for the lands acquired by the Secretary.

(Pub. L. 94–579, title II, § 205, Oct. 21, 1976, 90 Stat. 2755; Pub. L. 99–632, § 5, Nov. 7, 1986, 100 Stat. 3521.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a) and (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Act of June 9, 1916, referred to in subsec. (e), is not classified to the Code.

Act of February 26, 1919, referred to in subsec. (e), is act Feb. 26, 1919, ch. 47, 40 Stat. 1179, which is not classified to the Code.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–632, § 5(1), inserted exception relating to subsec. (e).

Subsec. (e). Pub. L. 99–632, § 5(2), added subsec. (e).

## § 1716. Exchanges of public lands or interests therein within the National Forest System

**(a) Authorization and limitations on authority of Secretary of the Interior and Secretary of Agriculture**

A tract of public land or interests therein may be disposed of by exchange by the Secretary under this Act and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture under applicable law where the Secretary concerned determines that the public interest will be well served by making that exchange: *Provided*, That when considering public interest the Secretary concerned shall give full consideration to better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the values of the non-Federal lands or interests and the public objectives they could serve if acquired.

**(b) Implementation requirements; cash equalization waiver**

In exercising the exchange authority granted by subsection (a) of this section or by section 1715(a) of this title, the Secretary concerned may accept title to any non-Federal land or interests therein in exchange for such land, or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land or interest to be acquired. For the purposes of this subsection, unsurveyed school sections which, upon survey by the Secretary, would become State lands, shall be considered as ''non-Federal lands''. The values of the lands exchanged by the Secretary under this Act and by the Secretary of Agriculture under applicable law relating to lands within the National Forest System either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands or interests transferred out of Federal ownership. The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or $15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States. The Secretary concerned

shall try to reduce the amount of the payment of money to as small an amount as possible.

**(c) Status of lands acquired upon exchange by Secretary of the Interior**

Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.

**(d) Appraisal of land; submission to arbitrator; determination to proceed or withdraw from exchange; use of other valuation process; suspension of deadlines**

(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section, the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

**(e) Simultaneous issue of patents or titles**

Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interest therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

**(f) New rules and regulations; appraisal rules and regulations; "costs and other responsibilities or requirements" defined**

(1) Within one year after August 20, 1988, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: *Provided, however*, That the provisions of such rules and regulations shall—

(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

(ii) also permit the Secretary concerned, where such Secretary determines it is in the public interest and it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

As used in this subparagraph, the term ''costs or other responsibilities or requirements'' shall

include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

**(g) Exchanges to proceed under existing laws and regulations pending new rules and regulations**

Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

**(h) Exchange of lands or interests of approximately equal value; conditions; "approximately equal value" defined**

(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

(B) the Secretary concerned finds in accordance with the regulations to be promulgated pursuant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

(C) the definition of and procedure for determining ''approximately equal value'' has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

(2) As used in this subsection, the term ''approximately equal value'' shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the ''Small Tracts Act'').

**(i) Segregation from appropriation under mining and public land laws**

(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other law applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.

(Pub. L. 94–579, title II, §206, Oct. 21, 1976, 90 Stat. 2756; Pub. L. 100–409, §§3, 9, Aug. 20, 1988, 102 Stat. 1087, 1092.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (d)(1), (e), (f)(1), (2)(B)(ii), (g), (h)(1), and (i), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Act of January 22, 1983 (commonly known as the ''Small Tracts Act''), referred to in subsec. (h)(2), is Pub. L. 97–465, Jan. 12, 1983, 96 Stat. 2535, which enacted sections 521c to 521i of Title 16, Conservation, and amended section 484a of Title 16. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–409, §3(b), inserted ''concerned'' after ''Secretary'' in first sentence.

Pub. L. 100–409, §9, inserted provision relating to waiver of cash equalization payments.

Subsec. (c). Pub. L. 100–409, §3(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture and shall then become National Forest System lands and subject to all the laws,

rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of National Park, Wildlife Refuge, Wild and Scenic Rivers, Trails, or any other System established by Act of Congress may be transferred to the appropriate agency head for administration as part of such System and in accordance with the laws, rules, and regulations applicable to such System.''

Subsecs. (d) to (i). Pub. L. 100–409, § 3(a), added subsecs. (d) to (i).

CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSES

Section 2 of Pub. L. 100–409 provided that:

''(a) FINDINGS.—The Congress finds and declares that—

''(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

''(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolidation for both Federal and State land managers and private landowners;

''(3) the Federal Land Policy and Management Act of 1976 [Pub. L. 94–579, see Short Title note set out under section 1701 of this title] and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

''(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedures and expedite exchanges.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 1988 Amendment note set out under section 1701 of this title] are:

''(1) to facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

''(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards; and

''(B) establishing procedures and guidelines for the resolution of appraisal disputes.[;]

''(2) to provide sufficient resources to the Secretaries of the Interior and Agriculture to ensure that land exchange activities can proceed consistent with the public interest; and

''(3) to require a study and report concerning improvements in the handling of certain information related to Federal and other lands.''

LAND EXCHANGE FUNDING AUTHORIZATION

Section 4 of Pub. L. 100–409 provided that: ''In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 [Pub. L. 94–579, see Short Title note set out under section 1701 of this title] and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed $4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy and Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.''

SAVINGS PROVISION

Section 5 of Pub. L. 100–409 provided that: ''Nothing in this Act [see Short Title of 1988 Amendment note set out under section 1701 of this title] shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92–203, as amended) [43 U.S.C. 1601 et seq.] or the Alaska National Interest Lands Conservation Act (Public Law 96–487, as amended) [see Tables for classification] or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby. Nothing in this Act shall be construed to change the discretionary nature of land exchanges or to prohibit the Secretary concerned or any other party or parties involved in a land exchange from withdrawing from the exchange at any time, unless the Secretary concerned and the other party or parties specifically commit otherwise by written agreement.''

## § 1717. Qualifications of conveyees

No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

(Pub. L. 94–579, title II, § 207, Oct. 21, 1976, 90 Stat. 2757.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

## § 1718. Documents of conveyance; terms, covenants, etc.

The Secretary shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 1716(b) of this title shall apply, such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest: *Provided*, That a conveyance of lands by the Secretary, subject to such terms, covenants, conditions, and reservations, shall not exempt the grantee from compliance with applicable Federal or State law or State land use plans: *Provided further*, That the Secretary shall not make conveyances of public lands containing terms and conditions which would, at the time of the conveyance, constitute a violation of any law or regulation pursuant to State and local land use plans, or programs.

(Pub. L. 94–579, title II, § 208, Oct. 21, 1976, 90 Stat. 2757.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal

Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

### § 1719. Mineral interests; reservation and conveyance requirements and procedures

(a) All conveyances of title issued by the Secretary, except those involving land exchanges provided for in section 1716 of this title, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that if the Secretary makes the findings specified in subsection (b) of this section, the minerals may then be conveyed together with the surface to the prospective surface owner as provided in subsection (b) of this section.

(b)(1) The Secretary, after consultation with the appropriate department or agency head, may convey mineral interests owned by the United States where the surface is or will be in non-Federal ownership, regardless of which Federal entity may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(2) Conveyance of mineral interests pursuant to this section shall be made only to the existing or proposed record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed.

(3) Before considering an application for conveyance of mineral interests pursuant to this section—

(i) the Secretary shall require the deposit by the applicant of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance: *Provided*, That, if the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and, if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess; or

(ii) the applicant, with the consent of the Secretary, shall have conducted, and submitted to the Secretary the results of, such an exploratory program, in accordance with standards promulgated by the Secretary.

(4) Moneys paid to the Secretary for administrative costs pursuant to this subsection shall be paid to the agency which rendered the service and deposited to the appropriation then current.

(Pub. L. 94–579, title II, § 209, Oct. 21, 1976, 90 Stat. 2757.)

### § 1720. Coordination by Secretary of the Interior with State and local governments

At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance. The Secretary shall also promptly notify such public officials of the issuance of the patent or other document of conveyance for such lands.

(Pub. L. 94–579, title II, § 210, Oct. 21, 1976, 90 Stat. 2758.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

### § 1721. Conveyances of public lands to States, local governments, etc.

#### (a) Unsurveyed islands; authorization and limitations on authority

The Secretary is authorized to convey to States or their political subdivisions under the Recreation and Public Purposes Act (44 Stat. 741 as amended; 43 U.S.C. 869 et seq.), as amended, but without regard to the acreage limitations contained therein, unsurveyed islands determined by the Secretary to be public lands of the United States. The conveyance of any such island may be made without survey: *Provided, however*, That such island may be surveyed at the request of the applicant State or its political subdivision if such State or subdivision donates money or services to the Secretary for such survey, the Secretary accepts such money or services, and such services are conducted pursuant to criteria established by the Director of the Bureau of Land Management. Any such island so surveyed shall not be conveyed without approval of such survey by the Secretary prior to the conveyance.

#### (b) Omitted lands; authorization and limitations on authority

(1) The Secretary is authorized to convey to States and their political subdivisions under the Recreation and Public Purposes Act [43 U.S.C. 869 to 869–4], but without regard to the acreage limitations contained therein, lands other than islands determined by him after survey to be public lands of the United States erroneously or fraudulently omitted from the original surveys (hereinafter referred to as ''omitted lands''). Any such conveyance shall not be made without a survey: *Provided*, That the prospective recipient may donate money or services to the Secretary for the surveying necessary prior to conveyance if the Secretary accepts such money or services, such services are conducted pursuant to criteria established by the Director of the Bu-

reau of Land Management, and such survey is approved by the Secretary prior to the conveyance.

(2) The Secretary is authorized to convey to the occupant of any omitted lands which, after survey, are found to have been occupied and developed for a five-year period prior to January 1, 1975, if the Secretary determines that such conveyance is in the public interest and will serve objectives which outweigh all public objectives and values which would be served by retaining such lands in Federal ownership. Conveyance under this subparagraph shall be made at not less than the fair market value of the land, as determined by the Secretary, and upon payment in addition of administrative costs, including the cost of making the survey, the cost of appraisal, and the cost of making the conveyance.

**(c) Conformity with land use plans and programs and coordination with State and local governments of conveyances**

(1) No conveyance shall be made pursuant to this section until the relevant State government, local government, and areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262) [42 U.S.C. 3334] and/or section 6506 of title 31 have notified the Secretary as to the consistency of such conveyance with applicable State and local government land use plans and programs.

(2) The provisions of section 1720 of this title shall be applicable to all conveyances under this section.

**(d) Applicability of other statutory requirements for authorized use of conveyed lands**

The final sentence of section 1(c) of the Recreation and Public Purposes Act [43 U.S.C. 869(c)] shall not be applicable to conveyances under this section.

**(e) Limitations on uses of conveyed lands**

No conveyance pursuant to this section shall be used as the basis for determining the baseline between Federal and State ownership, the boundary of any State for purposes of determining the extent of a State's submerged lands or the line of demarcation of Federal jurisdiction, or any similar or related purpose.

**(f) Applicability to lands within National Forest System, National Park System, National Wildlife Refuge System, and National Wild and Scenic Rivers System**

The provisions of this section shall not apply to any lands within the National Forest System, defined in the Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), the National Park System, the National Wildlife Refuge System, and the National Wild and Scenic Rivers System.

**(g) Applicability to other statutory provisions authorizing sale of specific omitted lands**

Nothing in this section shall supersede the provisions of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, and the Act of May 31, 1962 (76 Stat. 89), or any other Act authorizing the sale of specific omitted lands.

(Pub. L. 94–579, title II, § 211, Oct. 21, 1976, 90 Stat. 2758.)

REFERENCES IN TEXT

The Recreation and Public Purposes Act, referred to in subsecs. (a) and (b)(1), is act June 14, 1926, ch. 578, 44 Stat. 741, as amended, which is classified to sections 869 to 869–4 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 869 of this title and Tables.

Act of August 17, 1974 (88 Stat. 476; 16 U.S.C. 1601), referred to in subsec. (f), is Pub. L. 93–378, Aug. 17, 1974, 88 Stat. 476, as amended, known as the Forest and Rangelands Renewable Resources Planning Act of 1974, which is classified generally to subchapter I (§ 1600 et seq.) chapter 36 of Title 16, Conservation. The provisions of such Act defining the lands within the National Forest System are set out in section 1609 of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of Title 16 and Tables.

Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), as amended, referred to in subsec. (g), is act Dec. 22, 1928, ch. 47, 45 Stat. 1069, as amended, which is classified generally to chapter 25A (§ 1068 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

Act of May 31, 1962, referred to in subsec. (g), is Pub. L. 87–469, May 31, 1962, 76 Stat. 89, which is not classified to the Code.

CODIFICATION

In subsec. (c)(1), ''section 6506 of title 31'' substituted for ''title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4) [42 U.S.C. 4231 et seq.]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

## § 1722. Sale of public lands subject to unintentional trespass

**(a) Preference right of contiguous landowners; offering price**

Notwithstanding the provisions of the Act of September 26, 1968 (82 Stat. 870; 43 U.S.C. 1431–1435), hereinafter called the ''1968 Act'', with respect to applications under the 1968 Act which were pending before the Secretary as of the effective date of this subsection and which he approves for sale under the criteria prescribed by the 1968 Act, he shall give the right of first refusal to those having a preference right under section 2 of the 1968 Act [43 U.S.C. 1432]. The Secretary shall offer such lands to such preference right holders at their fair market value (exclusive of any values added to the land by such holders and their predecessors in interest) as determined by the Secretary as of September 26, 1973.

**(b) Procedures applicable**

Within three years after October 21, 1976, the Secretary shall notify the filers of applications subject to paragraph (a) of this section whether he will offer them the lands applied for and at what price; that is, their fair market value as of September 26, 1973, excluding any value added to the lands by the applicants or their predecessors in interest. He will also notify the President of the Senate and the Speaker of the House of Representatives of the lands which he has determined not to sell pursuant to paragraph (a) of this section and the reasons therefor. With respect to such lands which the Secretary determined not to sell, he shall take no other action to convey those lands or interests in them before the end of ninety days (not counting days

on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted such notice to the Senate and House of Representatives. If, during that ninety-day period, the Congress adopts a concurrent resolution stating the length of time such suspension of action should continue, he shall continue such suspension for the specified time period. If the committee to which a resolution has been referred during the said ninety-day period, has not reported it at the end of thirty calendar days after its referral, it shall be in order to either discharge the committee from further consideration of such resolution or to discharge the committee from consideration of any other resolution with respect to the suspension of action. A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported such a resolution), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same suspension of action. When the committee has reprinted, or has been discharged from further consideration of a resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

**(c) Time for processing of applications and sales**

Within five years after October 21, 1976, the Secretary shall complete the processing of all applications filed under the 1968 Act and hold sales covering all lands which he has determined to sell thereunder.

(Pub. L. 94–579, title II, § 214, Oct. 21, 1976, 90 Stat. 2760.)

REFERENCES IN TEXT

Act of September 26, 1968, referred to in subsec. (a), is Pub. L. 90–516, Sept. 26, 1968, 82 Stat. 870, which was classified generally to subchapter VII [§ 1431 et seq.] of chapter 30 of this title, and was omitted from the Code pursuant to section 1435 of this title, which provided that the authority granted by that subchapter was to expire three years from September 26, 1968, with certain exceptions. For complete classification of this Act to the Code prior to omission, see Tables.

The effective date of this subsection, referred to in subsec. (a), probably means the date of the enactment of such subsection (a) by Pub. L. 94–579, which was approved Oct. 21, 1976.

## § 1723. Temporary revocation authority

**(a) Exchange involved**

When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85–2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof), to use the authority contained herein, in lieu of other authority provided in this Act including section 1714 of this title, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

**(b) Requirements**

The authority specified in subsection (a) of this section may be exercised only in cases where—

(1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;

(2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;

(3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;

(4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and

(5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which includes—

(A) a justification for the necessity of exercising such authority in order to complete an exchange;

(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of

such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

**(c) Limitations**

(1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a) of this section, or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia.

(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

(3) The availability or exercise of the authority granted in subsection (a) of this section may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

**(d) Termination**

The authority specified in subsection (a) of this section shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuation thereof) specified in subsection (a) of this section is no longer in effect, whichever occurs first.

(Pub. L. 94–579, title II, § 215, as added Pub. L. 100–409, § 10, Aug. 20, 1988, 102 Stat. 1092; amended Pub. L. 103–437, § 16(d)(2), Nov. 2, 1994, 108 Stat. 4595.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b)(1), and (c)(3), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b)(5)(C), 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.

AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103–437 substituted ''Natural Resources'' for ''Interior and Insular Affairs'' before ''of the House''.

SAVINGS PROVISION

See note set out under section 1716 of this title.

SUBCHAPTER III—ADMINISTRATION

**§ 1731. Bureau of Land Management**

**(a) Director; appointment, qualifications, functions, and duties**

The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his jurisdiction according to the applicable provisions of this Act and any other applicable law.

**(b) Statutory transfer of functions, powers and duties relating to administration of laws**

Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950, the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the administration of laws which, on October 21, 1976, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. The Bureau shall administer such laws according to the provisions thereof existing as of October 21, 1976, as modified by the provisions of this Act or by subsequent law.

**(c) Associate Director, Assistant Directors, and other employees; appointment and compensation**

In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3[1] of chapter 53 of such title relating to classification and General Schedule pay rates.

**(d) Existing regulations relating to administration of laws**

Nothing in this section shall affect any regulation of the Secretary with respect to the administration of laws administered by him through the Bureau on October 21, 1976.

(Pub. L. 94–579, title III, § 301, Oct. 21, 1976, 90 Stat. 2762.)

REFERENCES IN TEXT

The provision of Reorg. Plan No. 3 of 1946 establishing the Bureau of Land Management, referred to in subsec. (a), is section 403 of such Reorg. Plan. Section 403 of Reorg. Plan No. 3 of 1946, also referred to in subsec. (b), is set out as a note under section 1 of this title.

This Act, referred to in subsecs. (a) and (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

Reorganization Plan Numbered 3 of 1950, referred to in subsec. (b), is set out under section 1451 of this title.

[1] So in original. Probably should be subchapter ''III''.

The General Schedule, referred to in subsec. (c), is set out under section 5332 of Title 5.

USE OF APPROPRIATED FUNDS FOR PROTECTION OF LANDS AND SURVEYS OF FEDERAL LANDS IN ALASKA

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1378, provided in part: ''That appropriations herein [Department of the Interior and Related Agencies Appropriations Act, 1993] made, in fiscal year 1993 and thereafter, may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska''.

### § 1732. Management of use, occupancy, and development of public lands

#### (a) Multiple use and sustained yield requirements applicable; exception

The Secretary shall manage the public lands under principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.

#### (b) Easements, permits, etc., for utilization through habitation, cultivation, and development of small trade or manufacturing concerns; applicable statutory requirements

In managing the public lands, the Secretary shall, subject to this Act and other applicable law and under such terms and conditions as are consistent with such law, regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands, including, but not limited to, long-term leases to permit individuals to utilize public lands for habitation, cultivation, and the development of small trade or manufacturing concerns: *Provided*, That unless otherwise provided for by law, the Secretary may permit Federal departments and agencies to use, occupy, and develop public lands only through rights-of-way under section 1767 of this title, withdrawals under section 1714 of this title, and, where the proposed use and development are similar or closely related to the programs of the Secretary for the public lands involved, cooperative agreements under section 1737(b) of this title: *Provided further*, That nothing in this Act shall be construed as authorizing the Secretary concerned to require Federal permits to hunt and fish on public lands or on lands in the National Forest System and adjacent waters or as enlarging or diminishing the responsibility and authority of the States for management of fish and resident wildlife. However, the Secretary concerned may designate areas of public land and of lands in the National Forest System where, and establish periods when, no hunting or fishing will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, any regulations of the Secretary concerned relating to hunting and fishing pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any provision of Federal law relating to migratory birds or to endangered or threatened species. Except as provided in section 1744, section 1782, and subsection (f) of section 1781 of this title and in the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.

#### (c) Revocation or suspension provision in instrument authorizing use, occupancy or development; violation of provision; procedure applicable

The Secretary shall insert in any instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such instrument upon a final administrative finding of a violation of any term or condition of the instrument, including, but not limited to, terms and conditions requiring compliance with regulations under Acts applicable to the public lands and compliance with applicable State or Federal air or water quality standard or implementation plan: *Provided*, That such violation occurred on public lands covered by such instrument and occurred in connection with the exercise of rights and privileges granted by it: *Provided further*, That the Secretary shall terminate any such suspension no later than the date upon which he determines the cause of said violation has been rectified: *Provided further*, That the Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect health or safety or the environment: *Provided further*, That, where other applicable law contains specific provisions for suspension, revocation, or cancellation of a permit, license, or other authorization to use, occupy, or develop the public lands, the specific provisions of such law shall prevail.

#### (d) Authorization to utilize certain public lands in Alaska for military purposes

(1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordnance.

(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 1712 of this title. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary

cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to—

(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

(3)(A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant adverse impact on the resources or values of the affected lands.

(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 1712(f) of this title, section 3120 of title 16, and all other applicable provisions of law. The Secretary of a military department (or the Commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of implementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military Department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety.

(6) For purposes of this subsection, the term ''conservation system unit'' has the same meaning as specified in section 3102 of title 16.

(Pub. L. 94–579, title III, § 302, Oct. 21, 1976, 90 Stat. 2762; Pub. L. 100–586, Nov. 3, 1988, 102 Stat. 2980.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The Mining Law of 1872, referred to in subsec. (b), is act May 10, 1872, ch. 152, 17 Stat. 91, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of Title 30, Mineral Lands and Mining. For complete classification of such Revised Statutes sections to the Code, see Tables.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–586 added subsec. (d).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Enforcement functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

MANAGEMENT GUIDELINES TO PREVENT WASTING OF PACIFIC YEW

For Congressional findings relating to management guidelines to prevent wasting of Pacific yew in current and future timber sales on Federal lands, see section 4801(a)(8) of Title 16, Conservation.

## § 1733. Enforcement authority

### (a) Regulations for implementation of management, use, and protection requirements; violations; criminal penalties

The Secretary shall issue regulations necessary to implement the provisions of this Act with respect to the management, use, and protection of the public lands, including the property located thereon. Any person who knowingly and willfully violates any such regulation which is lawfully issued pursuant to this Act shall be fined no more than $1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18.

### (b) Civil actions by Attorney General for violations of regulations; nature of relief; jurisdiction

At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of regulations issued by the Secretary under this Act.

**(c) Contracts for enforcement of Federal laws and regulations by local law enforcement officials; procedure applicable; contract requirements and implementation**

(1) When the Secretary determines that assistance is necessary in enforcing Federal laws and regulations relating to the public lands or their resources he shall offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such laws and regulations. The Secretary shall negotiate on reasonable terms with such officials who have authority to enter into such contracts to enforce such Federal laws and regulations. In the performance of their duties under such contracts such officials and their agents are authorized to carry firearms; execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; search without warrant or process any person, place, or conveyance according to any Federal law or rule of law; and seize without warrant or process any evidentiary item as provided by Federal law. The Secretary shall provide such law enforcement training as he deems necessary in order to carry out the contracted for responsibilities. While exercising the powers and authorities provided by such contract pursuant to this section, such law enforcement officials and their agents shall have all the immunities of Federal law enforcement officials.

(2) The Secretary may authorize Federal personnel or appropriate local officials to carry out his law enforcement responsibilities with respect to the public lands and their resources. Such designated personnel shall receive the training and have the responsibilities and authority provided for in paragraph (1) of this subsection.

**(d) Cooperation with regulatory and law enforcement officials of any State or political subdivision in enforcement of laws or ordinances**

In connection with the administration and regulation of the use and occupancy of the public lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or subdivision. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of the public lands.

**(e) Uniformed desert ranger force in California Desert Conservation Area; establishment; enforcement of Federal laws and regulations**

Nothing in this section shall prevent the Secretary from promptly establishing a uniformed desert ranger force in the California Desert Conservation Area established pursuant to section 1781 of this title for the purpose of enforcing Federal laws and regulations relating to the public lands and resources managed by him in such area. The officers and members of such ranger force shall have the same responsibilities and authority as provided for in paragraph (1) of subsection (c) of this section.

**(f) Applicability of other Federal enforcement provisions**

Nothing in this Act shall be construed as reducing or limiting the enforcement authority vested in the Secretary by any other statute.

**(g) Unlawful activities**

The use, occupancy, or development of any portion of the public lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

(Pub. L. 94–579, title III, § 303, Oct. 21, 1976, 90 Stat. 2763; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), and (f), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

''United States magistrate judge'' substituted for ''United States magistrate'' in subsec. (a) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

MODIFICATION OF REGULATIONS RELATING TO MINING OPERATIONS ON PUBLIC LANDS; POSTING OF RECLAMATION BOND FOR ALL OPERATIONS INVOLVING SIGNIFICANT SURFACE DISTURBANCE

Pub. L. 99–500, § 101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–243, and Pub. L. 99–591, § 101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–243, provided: ''That regulations pertaining to mining operations on public lands conducted under the Mining Law of 1872 (30 U.S.C. 22, et seq.) and sections 302, 303, and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1733, and 1782) shall be modified to include a requirement for the posting of reclamation bonds by operators for all operations which involve significant surface disturbance, (a) at the discretion of the authorized officer for operators who have a record of compliance with pertinent regulations concerning mining on public lands, and (b) on a mandatory basis only for operators with a history of noncompliance with the aforesaid regulations: *Provided further*, That surety bonds, third party surety bonds, or irrevocable letters of credit shall qualify as bond instruments: *Provided further*, That evidence of an equivalent bond posted with a State agency shall be accepted in lieu of a separate bond: *Provided further*, That the amount of such bonds shall be sufficient to cover the costs of reclamation as estimated by the Bureau of Land Management.''

## § 1734. Fees, charges, and commissions

**(a) Authority to establish and modify**

Notwithstanding any other provision of law, the Secretary may establish reasonable filing and service fees and reasonable charges, and commissions with respect to applications and other documents relating to the public lands

and may change and abolish such fees, charges, and commissions.

**(b) Deposits for payments to reimburse reasonable costs of United States**

The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for reasonable costs with respect to applications and other documents relating to such lands. The moneys received for reasonable costs under this subsection shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this section ''reasonable costs'' include, but are not limited to, the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities. In determining whether costs are reasonable under this section, the Secretary may take into consideration actual costs (exclusive of management overhead), the monetary value of the rights or privileges sought by the applicant, the efficiency to the government processing involved, that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant, the public service provided, and other factors relevant to determining the reasonableness of the costs.

**(c) Refunds**

In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

(Pub. L. 94–579, title III, § 304, Oct. 21, 1976, 90 Stat. 2765.)

FILING FEES FOR APPLICATIONS FOR NONCOMPETITIVE OIL AND GAS LEASES; STUDY AND REPORT OF RENTAL CHARGES ON OIL AND GAS LEASES

Pub. L. 97–35, title XIV, § 1401(d), Aug. 13, 1981, 95 Stat. 748, provided that:

''(1) Notwithstanding any other provision of law, effective October 1, 1981, all applications for noncompetitive oil and gas leases shall be accompanied by a filing fee of not less than $25 for each such application: *Provided*, That any increase in the filing fee above $25 shall be established by regulation and subject to the provisions of the Act of August 31, 1951 (65 Stat. 290) [probably means title V of that Act which was classified to section 483a of former Title 31, Money and Finance and was repealed and reenacted as section 9701 of Title 31 by Pub. L. 97–258] the Act of October 20, 1976 (90 Stat. 2765) [probably should be Oct. 21, 1976, meaning this chapter] but not limited to actual costs. Such fees shall be retained as a service charge even though the application or offer may be rejected or withdrawn in whole or in part.

''(2) The Secretary of the Interior is hereby directed to conduct a study and report to Congress within one year of the date of enactment of this Act [Aug. 13, 1981], regarding the current annual rental charges on all noncompetitive oil and gas leases to investigate the feasibility and effect of raising such rentals.''

**§ 1734a. Availability of excess fees**

In fiscal year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of section 1734 of this title for processing, recording, or documenting authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for a specific distribution, shall be made immediately available for program operations in this account and remain available until expended.

(Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–182.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1997, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

**§ 1735. Forfeitures and deposits**

**(a) Credit to separate account in Treasury; appropriation and availability**

Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

**(b) Expenditure of moneys collected administering Oregon and California Railroad and Coos Bay Wagon Road Grant lands**

Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j), shall be expended for the benefit of such land only.

**(c) Refunds**

If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

(Pub. L. 94–579, title III, § 305, Oct. 21, 1976, 90 Stat. 2765.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b) and (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976.

For complete classification of this Act to the Code, see Tables.

Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j), referred to in subsec. (b), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, which is classified principally to section 1181a et seq. of this title. Sections 1181f–1 to 1181f–4, included within the parenthetical reference to sections 1181a to 1181j, were enacted by act May 24, 1939, ch. 144, 53 Stat. 753. Sections 1181g to 1181j, also included within the parenthetical reference to sections 1181a to 1181j, were enacted by act June 24, 1954, ch. 357, 68 Stat. 270. Section 1181c, also included within the parenthetical reference to sections 1181a to 1181j, was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787. For complete classification of these Acts to the Code, see Tables.

AVAILABILITY OF FUNDS FOR IMPROVEMENT, PROTECTION, OR REHABILITATION OF DAMAGED PUBLIC LANDS

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–158; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.''

Similar provisions were contained in the following appropriation acts:

Pub. L. 112–74, div. E, title I, Dec. 23, 2011, 125 Stat. 987.

Pub. L. 111–88, div. A, title I, Oct. 30, 2009, 123 Stat. 2906.

Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 703.

Pub. L. 110–161, div. F, title I, Dec. 26, 2007, 121 Stat. 2099.

Pub. L. 109–54, title I, Aug. 2, 2005, 119 Stat. 502.

Pub. L. 108–447, div. E, title I, Dec. 8, 2004, 118 Stat. 3042.

Pub. L. 108–108, title I, Nov. 10, 2003, 117 Stat. 1244.

Pub. L. 108–7, div. F, title I, Feb. 20, 2003, 117 Stat. 219.

Pub. L. 107–63, title I, Nov. 5, 2001, 115 Stat. 418.

Pub. L. 106–291, title I, Oct. 11, 2000, 114 Stat. 925.

Pub. L. 106–113, div. B, § 1000(a)(3) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A–138.

Pub. L. 105–277, div. A, § 101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–234.

Pub. L. 105–83, title I, Nov. 14, 1997, 111 Stat. 1545.

Pub. L. 104–208, div. A, title I, § 101(d) [title I], Sept. 30, 1996, 110 Stat. 3009–181, 3009–184.

Pub. L. 103–332, title I, Sept. 30, 1994, 108 Stat. 2501.

Pub. L. 103–138, title I, Nov. 11, 1993, 107 Stat. 1381.

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1377.

Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 992.

Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1917.

Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 703.

Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1776.

Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–215.

## § 1736. Working capital fund

### (a) Establishment; availability of fund

There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

### (b) Initial funding; subsequent transfers

The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

### (c) Payments credited to fund; amount; advancement or reimbursement

The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

### (d) Authorization of appropriations

There is hereby authorized to be appropriated a sum not to exceed $3,000,000 as initial capital of the working capital fund.

(Pub. L. 94–579, title III, § 306, Oct. 21, 1976, 90 Stat. 2766.)

CODIFICATION

In subsec. (a), ''chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41'' substituted for ''the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, as amended)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

## § 1736a. Revolving fund derived from disposal of salvage timber

There is hereby established in the Treasury of the United States a special fund to be derived on and after October 5, 1992, from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the ad-

ministration of salvage timber sales, and subsequent site preparation and reforestation.

(Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1376.)

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1993, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

DISTRIBUTION OF RECEIPTS

Title I of Pub. L. 102–381, 106 Stat. 1376, provided in part that: ''Nothing in this provision [enacting this section] shall alter the formulas currently in existence by law for the distribution of receipts for the applicable lands and timber resources.''

### § 1737. Implementation provisions

#### (a) Investigations, studies, and experiments

The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

#### (b) Contracts and cooperative agreements

Subject to the provisions of applicable law, the Secretary may enter into contracts and cooperative agreements involving the management, protection, development, and sale of public lands.

#### (c) Contributions and donations of money, services, and property

The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

#### (d) Recruitment of volunteers

The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

#### (e) Restrictions on activities of volunteers

In accepting such services of individuals as volunteers, the Secretary—

(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

#### (f) Federal employment status of volunteers

Volunteers shall not be deemed employees of the United States except for the purposes of—

(1) the tort claims provisions of title 28;

(2) subchapter 1[1] of chapter 81 of title 5; and

(3) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of section 3721 of title 31 shall apply.

#### (g) Authorization of appropriations

Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d) of this section, but not more than $250,000 may be appropriated for any one fiscal year.

(Pub. L. 94–579, title III, § 307, Oct. 21, 1976, 90 Stat. 2766; Pub. L. 98–540, § 2, Oct. 24, 1984, 98 Stat. 2718; Pub. L. 101–286, title II, § 204(c), May 9, 1990, 104 Stat. 175.)

AMENDMENTS

1990—Subsec. (f). Pub. L. 101–286 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28 and subchapter 1 of chapter 81 of title 5, relating to compensation for work injuries.''

1984—Subsecs. (d) to (g). Pub. L. 98–540 added subsecs. (d) to (g).

### § 1738. Contracts for surveys and resource protection; renewals; funding requirements

(a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

(Pub. L. 94–579, title III, § 308, Oct. 21, 1976, 90 Stat. 2767.)

### § 1739. Advisory councils

#### (a) Establishment; membership; operation

The Secretary shall establish advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the area for which an advisory council is established. At least one member of each council shall be an elected official of general purpose government serving the people of such area. To

[1] So in original. Probably should be subchapter ''I''.

the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the requirements of the Federal Advisory Committee Act (86 Stat. 770).

**(b) Meetings**

Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least once a year with such meetings being called by the Secretary.

**(c) Travel and per diem payments**

Members of advisory councils shall serve without pay, except travel and per diem will be paid each member for meetings called by the Secretary.

**(d) Functions**

An advisory council may furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands within the area for which the advisory council is established and such other matters as may be referred to it by the Secretary.

**(e) Public participation; procedures applicable**

In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

(Pub. L. 94–579, title III, § 309, Oct. 21, 1976, 90 Stat. 2767; Pub. L. 95–514, § 13, Oct. 25, 1978, 92 Stat. 1808.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This Act, referred to in subsec. (e), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–514 substituted in first sentence ''shall establish'' for ''is authorized to establish''.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

## § 1740. Rules and regulations

The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act and of other laws applicable to the public lands, and the Secretary of Agriculture, with respect to lands within the National Forest System, shall promulgate rules and regulations to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, without regard to section 553(a)(2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practical.

(Pub. L. 94–579, title III, § 310, Oct. 21, 1976, 90 Stat. 2767.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

## § 1741. Annual reports

**(a) Purpose; time for submission**

For the purpose of providing information that will aid Congress in carrying out its oversight responsibilities for public lands programs and for other purposes, the Secretary shall prepare a report in accordance with subsections (b) and (c) of this section and submit it to the Congress no later than one hundred and twenty days after the end of each fiscal year beginning with the report for fiscal year 1979.

**(b) Format**

A list of programs and specific information to be included in the report as well as the format of the report shall be developed by the Secretary after consulting with the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and shall be provided to the committees prior to the end of the second quarter of each fiscal year.

**(c) Contents**

The report shall include, but not be limited to, program identification information, program evaluation information, and program budgetary information for the preceding current and succeeding fiscal years.

(Pub. L. 94–579, title III, § 311, Oct. 21, 1976, 90 Stat. 2768; Pub. L. 103–437, § 16(d)(3), Nov. 2, 1994, 108 Stat. 4595.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–437 substituted ''Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate'' for ''Committees on Interior and Insular Affairs of the House and Senate''.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which the 9th item on page 112 identifies a reporting provision which, as sub-

sequently amended, is contained in this section), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

### § 1742. Search, rescue, and protection forces; emergency situations authorizing hiring

Where in his judgment sufficient search, rescue, and protection forces are not otherwise available, the Secretary is authorized in cases of emergency to incur such expenses as may be necessary (a) in searching for and rescuing, or in cooperating in the search for and rescue of, persons lost on the public lands, (b) in protecting or rescuing, or in cooperating in the protection and rescue of, persons or animals endangered by an act of God, and (c) in transporting deceased persons or persons seriously ill or injured to the nearest place where interested parties or local authorities are located.

(Pub. L. 94–579, title III, § 312, Oct. 21, 1976, 90 Stat. 2768.)

### § 1743. Disclosure of financial interests by officers or employees

**(a) Annual written statement; availability to public**

Each officer or employee of the Secretary and the Bureau who—

(1) performs any function or duty under this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit, lease, or right-of-way under, or (B) applies for or acquires any land or interests therein under, or (C) is otherwise subject to the provisions of, this Act,

shall, beginning on February 1, 1977, annually file with the Secretary a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

**(b) Implementation of requirements**

The Secretary shall—

(1) act within ninety days after October 21, 1976—

(A) to define the term ''known financial interests'' for the purposes of subsection (a) of this section; and

(B) to establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

**(c) Exempted personnel**

In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicy-making nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

**(d) Violations; criminal penalties**

Any officer or employee who is subject to, and knowingly violates, this section, shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 94–579, title III, § 313, Oct. 21, 1976, 90 Stat. 2768.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(1), (2), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to the requirement that the Secretary report to Congress on June 1 of each calendar year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 2nd item on page 108 of House Document No. 103–7.

### § 1744. Recordation of mining claims

**(a) Filing requirements**

The owner of an unpatented lode or placer mining claim located prior to October 21, 1976, shall, within the three-year period following October 21, 1976 and prior to December 31 of each year thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after October 21, 1976 shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection:

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, on[1] a detailed report provided by section 28–1 of title 30, relating thereto.

(2) File in the office of the Bureau designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection, including a description of the location of the mining claim sufficient to locate the claimed lands on the ground.

**(b) Additional filing requirements**

The owner of an unpatented lode or placer mining claim or mill or tunnel site located prior to October 21, 1976 shall, within the three-year period following October 21, 1976, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground. The owner of an unpatented lode or placer mining claim or mill or tunnel site located after October 21, 1976 shall, within ninety days after the date of loca-

[1] So in original. Probably should be ''or''.

tion of such claim, file in the office of the Bureau designated by the Secretary a copy of the official record of the notice of location or certificate of location, including a description of the location of the mining claim or mill or tunnel site sufficient to locate the claimed lands on the ground.

**(c) Failure to file as constituting abandonment; defective or untimely filing**

The failure to file such instruments as required by subsections (a) and (b) of this section shall be deemed conclusively to constitute an abandonment of the mining claim or mill or tunnel site by the owner; but it shall not be considered a failure to file if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim or mill or tunnel site.

**(d) Validity of claims, waiver of assessment, etc., as unaffected**

Such recordation or application by itself shall not render valid any claim which would not be otherwise valid under applicable law. Nothing in this section shall be construed as a waiver of the assessment and other requirements of such law.

(Pub. L. 94–579, title III, § 314, Oct. 21, 1976, 90 Stat. 2769.)

**§ 1745. Disclaimer of interest in lands**

**(a) Issuance of recordable document; criteria**

After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

**(b) Procedures applicable**

No document or disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

**(c) Construction as quit-claim deed from United States**

Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

(Pub. L. 94–579, title III, § 315, Oct. 21, 1976, 90 Stat. 2770.)

**§ 1746. Correction of conveyance documents**

The Secretary may correct patents or documents of conveyance issued pursuant to section 1718 of this title or to other Acts relating to the disposal of public lands where necessary in order to eliminate errors. In addition, the Secretary may make corrections of errors in any documents of conveyance which have heretofore been issued by the Federal Government to dispose of public lands. Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.

(Pub. L. 94–579, title III, § 316, Oct. 21, 1976, 90 Stat. 2770; Pub. L. 108–7, div. F, title IV, § 411(e), Feb. 20, 2003, 117 Stat. 291.)

AMENDMENTS

2003—Pub. L. 108–7 inserted at end ''Any corrections authorized by this section which affect the boundaries of, or jurisdiction over, land administered by another Federal agency shall be made only after consultation with, and the approval of, the head of such other agency.''

**§ 1747. Loans to States and political subdivisions; purposes; amounts; allocation; terms and conditions; interest rate; security; limitations; forebearance for benefit of borrowers; recordkeeping requirements; discrimination prohibited; deposit of receipts**

(1) The Secretary is authorized to make loans to States and their political subdivisions in order to relieve social or economic impacts occasioned by the development of minerals leased in such States pursuant to the Act of February 25, 1920, as amended [30 U.S.C. 181 et seq.]. Such loans shall be confined to the uses specified for the 50 per centum of mineral leasing revenues to be received by such States and subdivisions pursuant to section 35 of such Act [30 U.S.C. 191].

(2) The total amount of loans outstanding pursuant to this section for any State and political subdivisions thereof in any year shall be not more than the anticipated mineral leasing revenues to be received by that State pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], for the ten years following.

(3) The Secretary, after consultation with the Governors of the affected States, shall allocate such loans among the States and their political subdivisions in a fair and equitable manner, giving priority to those States and subdivisions suffering the most severe impacts.

(4) Loans made pursuant to this section shall be subject to such terms and conditions as the Secretary determines necessary to assure the achievement of the purpose of this section. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this section no later than three months after August 20, 1978.

(5) Loans made pursuant to this section shall bear interest equivalent to the lowest interest rate paid on an issue of at least $1,000,000 of tax

exempt bonds of such State or any agency thereof within the preceding calendar year.

(6) Any loan made pursuant to this section shall be secured only by a pledge of the revenues received by the State or the political subdivision thereof pursuant to section 35 of the Act of February 25, 1920, as amended [30 U.S.C. 191], and shall not constitute an obligation upon the general property or taxing authority of such unit of government.

(7) Notwithstanding any other provision of law, loans made pursuant to this section may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under this section.

(8) Nothing in this section shall be construed to preclude any forebearance[1] for the benefit of the borrower including loan restructuring, which may be determined by the Secretary as justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made pursuant to this section.

(9) Recipients of loans made pursuant to this section shall keep such records as the Secretary shall prescribe by regulation, including records which fully disclose the disposition of the proceeds of such assistance and such other records as the Secretary may require to facilitate an effective audit. The Secretary and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records.

(10) No person in the United States shall, on the grounds of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or part with funds made available under this section.

(11) All amounts collected in connection with loans made pursuant to this section, including interest payments or repayments of principal on loans, fees, and other moneys, derived in connection with this section, shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 94–579, title III, § 317(c), Oct. 21, 1976, 90 Stat. 2771; Pub. L. 95–352, § 1(f), Aug. 20, 1978, 92 Stat. 515.)

REFERENCES IN TEXT

Act of February 25, 1920, as amended, referred to in par. (1), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, known as the Mineral Leasing Act, which is classified generally to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining. For complete classification of this Act to the Code, see Short Title note set out under section 181 of Title 30 and Tables.

CODIFICATION

Section is comprised of subsec. (c) of section 317 of Pub. L. 94–579. Subsecs. (a) and (b) of section 317 of Pub. L. 94–579 are classified to section 191 of Title 30, Mineral Lands and Mining, and a note set out under that section; respectively.

[1] So in original.

AMENDMENTS

1978—Pars. (1) and (2). Pub. L. 95–352 redesignated par. (1) as pars. (1) and (2), in par. (1) struck out provisions establishing interest rate requirements, and in par. (2) struck out exception for Alaska and requirements for repayment. Former par. (2) redesignated (3).

Pars. (3) to (11). Pub. L. 95–352 redesignated former pars. (2) and (3) as (3) and (4), respectively, and added pars. (5) to (11).

## § 1748. Funding requirements

### (a) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act, but no amounts shall be appropriated to carry out after October 1, 2002, any program, function, or activity of the Bureau under this or any other Act unless such sums are specifically authorized to be appropriated as of October 21, 1976 or are authorized to be appropriated in accordance with the provisions of subsection (b) of this section.

### (b) Procedure applicable for authorization of appropriations

Consistent with section 1110 of title 31, beginning May 15, 1977, and not later than May 15 of each second even numbered year thereafter, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a request for the authorization of appropriations for all programs, functions, and activities of the Bureau to be carried out during the four-fiscal-year period beginning on October 1 of the calendar year following the calendar year in which such request is submitted. The Secretary shall include in his request, in addition to the information contained in his budget request and justification statement to the Office of Management and Budget, the funding levels which he determines can be efficiently and effectively utilized in the execution of his responsibilities for each such program, function, or activity, notwithstanding any budget guidelines or limitations imposed by any official or agency of the executive branch.

### (c) Distribution of receipts from Bureau from disposal of lands, etc.

Nothing in this section shall apply to the distribution of receipts of the Bureau from the disposal of lands, natural resources, and interests in lands in accordance with applicable law, nor to the use of contributed funds, private deposits for public survey work, and townsite trusteeships, nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-Federal sources, and funds expended for emergency firefighting and rehabilitation.

### (d) Purchase of certain public lands from Land and Water Conservation Fund

In exercising the authority to acquire by purchase granted by section 1715(a) of this title, the Secretary may use the Land and Water Conservation Fund to purchase lands which are necessary for proper management of public lands which are primarily of value for outdoor recreation purposes.

(Pub. L. 94–579, title III, § 318, Oct. 21, 1976, 90 Stat. 2771; Pub. L. 104–333, div. I, title III, § 310, Nov. 12, 1996, 110 Stat. 4139.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (b), ''section 1110 of title 31'' substituted for ''section 607 of the Congressional Budget Act of 1974 [31 U.S.C. 11c]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–333 substituted ''October 1, 2002'' for ''October 1, 1978''.

## § 1748a. FLAME Wildfire Suppression Reserve Funds

### (a) Definitions

In this section:

#### (1) Federal land

The term ''Federal land'' means—

(A) public land, as defined in section 1702 of this title;

(B) units of the National Park System;

(C) refuges of the National Wildlife Refuge System;

(D) land held in trust by the United States for the benefit of Indian tribes or members of an Indian tribe; and

(E) land in the National Forest System, as defined in section 1609(a) of title 16.

#### (2) FLAME Fund

The term ''FLAME Fund'' means a FLAME Wildfire Suppression Reserve Fund established by subsection (b).

#### (3) Relevant congressional committees

The term ''relevant congressional committees'' means the Committee on Appropriations, the Committee on Natural Resources, and the Committee on Agriculture of the House of Representatives and the Committee on Appropriations, the Committee on Energy and Natural Resources, and the Committee on Indian Affairs of the Senate.

#### (4) Secretary concerned

The term ''Secretary concerned'' means—

(A) the Secretary of the Interior, with respect to—

(i) Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(ii) the FLAME Fund established for the Department of the Interior; and

(B) the Secretary of Agriculture, with respect to—

(i) National Forest System land; and

(ii) the FLAME Fund established for the Department of the Agriculture.

### (b) Establishment of FLAME Funds

There is established in the Treasury of the United States the following accounts:

(1) The FLAME Wildfire Suppression Reserve Fund for the Department of the Interior.

(2) The FLAME Wildfire Suppression Reserve Fund for the Department of Agriculture.

### (c) Purpose of FLAME Funds

The FLAME Funds shall be available to cover the costs of large or complex wildfire events and as a reserve when amounts provided for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts are exhausted.

### (d) Funding

#### (1) Credits to funds

A FLAME Fund shall consist of the following:

(A) Such amounts as are appropriated to that FLAME Fund.

(B) Such amounts as are transferred to that FLAME Fund under paragraph (5).

#### (2) Authorization of appropriations

##### (A) Authorization of appropriations

There are authorized to be appropriated to the FLAME Funds such amounts as are necessary to carry out this section.

##### (B) Congressional intent

It is the intent of Congress that, for fiscal year 2011 and each fiscal year thereafter, the amounts requested by the President for a FLAME Fund should be not less than the amount estimated by the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i).

##### (C) Sense of Congress on designation of flame fund appropriations, supplemental funding request, and supplement to other suppression funding

It is the sense of Congress that for fiscal year 2011 and each fiscal year thereafter—

(i) amounts appropriated to a FLAME Fund in excess of the amount estimated by the Secretary concerned as the amount necessary for that fiscal year for wildfire suppression activities of the Secretary that meet the criteria specified in subsection (e)(2)(B)(i) should be designated as amounts necessary to meet emergency needs;

(ii) the Secretary concerned should promptly make a supplemental request for additional funds to replenish the FLAME Fund if the Secretary determines that the FLAME Fund will be exhausted within 30 days; and

(iii) funding made available through the FLAME Fund should be used to supplement the funding otherwise appropriated to the Secretary concerned for wildfire suppression and Federal emergency response in the Wildland Fire Management appropriation accounts.

#### (3) Availability

Amounts in a FLAME Fund shall remain available to the Secretary concerned until expended.

#### (4) Notice of insufficient funds

The Secretary concerned shall notify the relevant congressional committees if the Secretary estimates that only 60 days worth of

funds remain in the FLAME Fund administered by that Secretary.

**(5) Transfer authority**

If a FLAME Fund has insufficient funds, the Secretary concerned administering the other FLAME Fund may transfer amounts to the FLAME Fund with insufficient funds. Not more than $100,000,000 may be transferred from a FLAME Fund during any fiscal year under this authority.

**(e) Use of FLAME Fund**

**(1) In general**

Subject to paragraphs (2) and (3), amounts in a FLAME Fund shall be available to the Secretary concerned to transfer to the Wildland Fire Management appropriation account of that Secretary to pay the costs of wildfire suppression activities of that Secretary that are separate from amounts for wildfire suppression activities annually appropriated to that Secretary under the Wildland Fire Management appropriation account of that Secretary.

**(2) Declaration required**

**(A) In general**

Amounts in a FLAME Fund shall be available for transfer under paragraph (1) only after that Secretary concerned issues a declaration that a wildfire suppression event is eligible for funding from the FLAME Fund.

**(B) Declaration criteria**

A declaration by the Secretary concerned under subparagraph (A) may be issued only if—

(i) in the case of an individual wildfire incident—

(I) the fire covers 300 or more acres; or

(II) the Secretary concerned determines that the fire has required an emergency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resources; or

(ii) the cumulative costs of wildfire suppression and Federal emergency response activities for the Secretary concerned will exceed, within 30 days, all of the amounts previously appropriated (including amounts appropriated under an emergency designation, but excluding amounts appropriated to the FLAME Fund) to the Secretary concerned for wildfire suppression and Federal emergency response.

**(3) State, private, and tribal land**

Use of a FLAME Fund for emergency wildfire suppression activities on State land, private land, and tribal land shall be consistent with any existing agreements in which the Secretary concerned has agreed to assume responsibility for wildfire suppression activities on the land.

**(f) Treatment of anticipated and predicted activities**

For fiscal year 2011 and subsequent fiscal years, the Secretary concerned shall request funds within the Wildland Fire Management appropriation account of that Secretary for regular wildfire suppression activities that do not meet the criteria specified in subsection (e)(2)(B)(i).

**(g) Prohibition on other transfers**

The Secretary concerned may not transfer funds from non-fire accounts to the Wildland Fire Management appropriation account of that Secretary unless amounts in the FLAME Fund of that Secretary and any amounts appropriated to that Secretary for the purpose of wildfire suppression will be exhausted within 30 days.

**(h) Accounting and reports**

**(1) Accounting and reporting requirements**

The Secretary concerned shall account and report on amounts transferred from the respective FLAME Fund in a manner that is consistent with existing National Fire Plan reporting procedures.

**(2) Annual report**

The Secretary concerned shall submit to the relevant congressional committees and make available to the public an annual report that—

(A) describes the obligation and expenditure of amounts transferred from the FLAME Fund; and

(B) includes any recommendations that the Secretary concerned may have to improve the administrative control and oversight of the FLAME Fund.

**(3) Estimates of wildfire suppression costs to improve budgeting and funding**

**(A) In general**

Consistent with the schedule provided in subparagraph (C), the Secretary concerned shall submit to the relevant congressional committees an estimate of anticipated wildfire suppression costs for the applicable fiscal year.

**(B) Independent review**

The methodology for developing the estimates under subparagraph (A) shall be subject to periodic independent review to ensure compliance with subparagraph (D).

**(C) Schedule**

The Secretary concerned shall submit an estimate under subparagraph (A) during—

(i) the first week of March of each year;

(ii) the first week of May of each year;

(iii) the first week of July of each year; and

(iv) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.

**(D) Requirements**

An estimate of anticipated wildfire suppression costs shall be developed using the best available—

(i) climate, weather, and other relevant data; and

(ii) models and other analytic tools.

**(i) Termination of authority**

The authority of the Secretary concerned to use the FLAME Fund established for that Sec-

retary shall terminate at the end of the third fiscal year in which no appropriations to, or withdrawals from, that FLAME Fund have been made for a period of three consecutive fiscal years. Upon termination of such authority, any amounts remaining in the affected FLAME Fund shall be transferred to, and made a part of, the Wildland Fire Management appropriation account of the Secretary concerned for wildland suppression activities.

(Pub. L. 111–88, div. A, title V, § 502, Oct. 30, 2009, 123 Stat. 2968.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

### § 1748b. Cohesive wildfire management strategy

**(a) Strategy required**

Not later than one year after October 30, 2009, the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

**(b) Elements of strategy**

The strategy required by subsection (a) shall provide for—

(1) the identification of the most cost-effective means for allocating fire management budget resources;

(2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;

(3) employing the appropriate management response to wildfires;

(4) assessing the level of risk to communities;

(5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;

(6) assessing the impacts of climate change on the frequency and severity of wildfire; and

(7) studying the effects of invasive species on wildfire risk.

**(c) Revision**

At least once during each five-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretary of the Interior and the Secretary of Agriculture shall revise the strategy to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

(Pub. L. 111–88, div. A, title V, § 503, Oct. 30, 2009, 123 Stat. 2971.)

CODIFICATION

Section was enacted as part of the Federal Land Assistance, Management, and Enhancement Act of 2009, also known as the FLAME Act of 2009, and also as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

## SUBCHAPTER IV—RANGE MANAGEMENT

### § 1751. Grazing fees; feasibility study; contents; submission of report; annual distribution and use of range betterment funds; nature of distributions

(a) The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after October 21, 1976, together with recommendations to implement a reasonable grazing fee schedule based upon such study. If the report required herein has not been submitted to the Congress within one year after October 21, 1976, the grazing fee charge then in effect shall not be altered and shall remain the same until such report has been submitted to the Congress. Neither Secretary shall increase the grazing fee in the 1977 grazing year.

(b)(1) Congress finds that a substantial amount of the Federal range lands is deteriorating in quality, and that installation of additional range improvements could arrest much of the continuing deterioration and could lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production. Congress therefore directs that 50 per centum or $10,000,000 per annum, whichever is greater of all moneys received by the United States as fees for grazing domestic livestock on public lands (other than from ceded Indian lands) under the Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.) and the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181d), and on lands in National Forests in the sixteen contiguous Western States under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of on-the-ground range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for on-the-ground range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any other appropriations made to the respective Secretary for planning and administration of the range betterment program and for other

range management. Such rehabilitation, protection, and improvements shall include all forms of range land betterment including, but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with user representatives. The annual distribution and use of range betterment funds authorized by this paragraph shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(c)[1] of title 42.

(2) All distributions of moneys made under subsection (b)(1) of this section shall be in addition to distributions made under section 10 of the Taylor Grazing Act [43 U.S.C. 315i] and shall not apply to distribution of moneys made under section 11 of that Act [43 U.S.C. 315j]. The remaining moneys received by the United States as fees for grazing domestic livestock on the public lands shall be deposited in the Treasury as miscellaneous receipts.

(Pub. L. 94–579, title IV, § 401(a), (b)(1), (2), Oct. 21, 1976, 90 Stat. 2772; Pub. L. 95–514, § 6(b), Oct. 25, 1978, 92 Stat. 1806.)

REFERENCES IN TEXT

The Taylor Grazing Act (48 Stat. 1269; 43 U.S.C. 315 et seq.), referred to in subsec. (b), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

Act of August 28, 1937, referred to in subsec. (b)(2), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, as amended, which is classified to sections 1181a to 1181f of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsec. (b)(2) of this section is comprised of second and third sentences of section 401(b)(2) of Pub. L. 94–579. The first sentence of such section 401(b)(2) amended section 315i(b) of this title.

AMENDMENTS

1978—Subsec. (b)(1). Pub. L. 95–514 inserted ''or $10,000,000 per annum, whichever is greater'' after ''50 per centum'' and substituted ''sixteen contiguous Western States'' for ''eleven contiguous Western States''.

MORATORIUM ON INCREASE OF GRAZING FEE FOR 1978 GRAZING YEAR

Pub. L. 95–321, July 21, 1978, 92 Stat. 394, in order to allow the Congress sufficient time to analyze the report and recommendations of the Secretaries of Interior and Agriculture under subsec. (a) of this section and to take appropriate action, provided that the 1978 grazing year fee was not to be raised by the Secretary of the Interior for the grazing of livestock on public lands nor by the Secretary of Agriculture for such grazing on lands under the jurisdiction of the Forest Service.

## § 1752. Grazing leases and permits

### (a) Terms and conditions

Except as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a–1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the sixteen contiguous Western States, shall be for a term of ten years subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

### (b) Terms of lesser duration

Permits or leases may be issued by the Secretary concerned for a period shorter than ten years where the Secretary concerned determines that—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of ten years; or

(3) it will be in the best interest of sound land management to specify a shorter term: *Provided*, That the absence from an allotment management plan of details the Secretary concerned would like to include but which are undeveloped shall not be the basis for establishing a term shorter than ten years: *Provided further*, That the absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless the Secretary determines on a case-by-case basis that the information to be contained in such land use plan or court ordered environmental impact statement is necessary to determine whether a shorter term should be established for any of the reasons set forth in items (1) through (3) of this subsection.

### (c) First priority for renewal of expiring permit or lease

So long as (1) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 1712 of this title or section 1604 of title 16, (2) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and (3) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.

### (d) Allotment management plan requirements

All permits and leases for domestic livestock grazing issued pursuant to this section may incorporate an allotment management plan developed by the Secretary concerned. However, nothing in this subsection shall be construed to supersede any requirement for completion of court ordered environmental impact statements prior to development and incorporation of allotment management plans. If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in

[1] So in original. Probably means ''4332(2)(C)''.

careful and considered consultation, cooperation and coordination with the lessees, permittees, and landowners involved, the district grazing advisory boards established pursuant to section 1753 of this title, and any State or States having lands within the area to be covered by such allotment management plan. Allotment management plans shall be tailored to the specific range condition of the area to be covered by such plan, and shall be reviewed on a periodic basis to determine whether they have been effective in improving the range condition of the lands involved or whether such lands can be better managed under the provisions of subsection (e) of this section. The Secretary concerned may revise or terminate such plans or develop new plans from time to time after such review and careful and considered consultation, cooperation and coordination with the parties involved. As used in this subsection, the terms ''court ordered environmental impact statement'' and ''range condition'' shall be defined as in the ''Public Rangelands Improvement Act of 1978 [43 U.S.C. 1901 et seq.]''.

**(e) Omission of allotment management plan requirements and incorporation of appropriate terms and conditions; reexamination of range conditions**

In all cases where the Secretary concerned has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations and will not be prepared, the Secretary concerned shall incorporate in grazing permits and leases such terms and conditions as he deems appropriate for management of the permitted or leased lands pursuant to applicable law. The Secretary concerned shall also specify therein the numbers of animals to be grazed and the seasons of use and that he may reexamine the condition of the range at any time and, if he finds on reexamination that the condition of the range requires adjustment in the amount or other aspect of grazing use, that the permittee or lessee shall adjust his use to the extent the Secretary concerned deems necessary. Such readjustment shall be put into full force and effect on the date specified by the Secretary concerned.

**(f) Allotment management plan applicability to non-Federal lands; appeal rights**

Allotment management plans shall not refer to livestock operations or range improvements on non-Federal lands except where the non-Federal lands are intermingled with, or, with the consent of the permittee or lessee involved, associated with, the Federal lands subject to the plan. The Secretary concerned under appropriate regulations shall grant to lessees and permittees the right of appeal from decisions which specify the terms and conditions of allotment management plans. The preceding sentence of this subsection shall not be construed as limiting any other right of appeal from decisions of such officials.

**(g) Cancellation of permit or lease; determination of reasonable compensation; notice**

Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive from the United States a reasonable compensation for the adjusted value, to be determined by the Secretary concerned, of his interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

**(h) Applicability of provisions to rights, etc., in or to public lands or lands in National Forests**

Nothing in this Act shall be construed as modifying in any way law existing on October 21, 1976, with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.

(Pub. L. 94–579, title IV, § 402, Oct. 21, 1976, 90 Stat. 2772, 2773; Pub. L. 95–514, §§ 7, 8, Oct. 25, 1978, 92 Stat. 1807.)

REFERENCES IN TEXT

Act of June 28, 1934, referred to in subsec. (a), is act June 28, 1934, ch. 865, 48 Stat. 1269, known as the Taylor Grazing Act, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j), referred to in subsec. (a), is act Aug. 28, 1937, ch. 876, 50 Stat. 874, which is classified principally to section 1181a et seq. of this title. Sections 1181f–1 to 1181f–4, included within the parenthetical reference to sections 1181a to 1181j, were enacted by act May 24, 1939, ch. 144, 53 Stat. 753. Sections 1181g to 1181j, also included within the parenthetical reference to sections 1181a to 1181j, were enacted by act June 24, 1954, ch. 357, 68 Stat. 270. Section 1181c, also included within the parenthetical reference to sections 1181a to 1181j, was repealed by Pub. L. 94–579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787. For complete classification of these Acts to the Code, see Tables.

The Public Rangelands Improvement Act of 1978, referred to in subsec. (d), is Pub. L. 95–514, Oct. 25, 1978, 92 Stat. 1803, which is classified principally to chapter 37 (§ 1901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

This Act, referred to in subsec. (h), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–514, § 7(b), substituted ''sixteen contiguous Western States'' for ''eleven contiguous Western States''.

Subsec. (b)(3). Pub. L. 95–514, § 7(a), inserted provision that absence of completed land use plans or court ordered environmental statements shall not be the sole basis for establishing a term shorter than ten years unless information therein would be necessary to determine whether a shorter term should be established for any of the specified reasons.

Subsec. (d). Pub. L. 95–514, § 8(a), struck out '', with the exceptions authorized in subsection (e) of this section, on and after October 1, 1988,'' after ''pursuant to this section'' and inserted provisions prohibiting any

requirements for completion of court ordered environmental impact statements prior to development and incorporation of allotment plans from being superseded by subsec. (d), providing for careful and considered consultation, cooperation, and coordination with certain persons, including landowners involved, district grazing advisory boards and States having lands within the covered area and for tailoring allotment management plans to the specific range condition of the covered area and periodic review thereof, authorizing the Secretary to terminate or develop the plans after review and careful and considered consultation, cooperation, and coordination with the parties involved, and defining ''court ordered environmental impact statement'' and ''range condition''.

Subsec. (e). Pub. L. 95–514, § 8(b), substituted introductory word ''In'' for ''Prior to October 1, 1988, or thereafter, in''.

GRAZING PERMIT RENEWALS

Pub. L. 108–108, title III, § 325, Nov. 10, 2003, 117 Stat. 1308, provided in part: ''That beginning in November 2004, and every year thereafter, the Secretaries of the Interior and Agriculture shall report to Congress the extent to which they are completing analysis required under applicable laws prior to the expiration of grazing permits, and beginning in May 2004, and every two years thereafter, the Secretaries shall provide Congress recommendations for legislative provisions necessary to ensure all permit renewals are completed in a timely manner. The legislative recommendations provided shall be consistent with the funding levels requested in the Secretaries' budget proposals''.

APPEALS OF REDUCTIONS IN GRAZING ALLOTMENTS ON PUBLIC RANGELAND; TIME; EFFECTIVE DATE OF REDUCTIONS; SUSPENSION PENDING FINAL ACTION ON APPEAL

Provisions requiring appeals of reductions in grazing allotments on public rangelands to be taken within a certain time period; providing that reductions of up to 10 per centum in grazing allotments are effective when so designated by the Secretary; suspending proposed reductions in excess of 10 per centum pending final action on appeals; and requiring final action on appeals to be completed within 2 years of filing of the appeal were contained in the following appropriation acts:

Pub. L. 102–381, title I, Oct. 5, 1992, 106 Stat. 1378.
Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 993.
Pub. L. 101–512, title I, Nov. 5, 1990, 104 Stat. 1917.
Pub. L. 101–121, title I, Oct. 23, 1989, 103 Stat. 704.
Pub. L. 100–446, title I, Sept. 27, 1988, 102 Stat. 1776.
Pub. L. 100–202, § 101(g) [title I], Dec. 22, 1987, 101 Stat. 1329–213, 1329–216.
Pub. L. 99–500, § 101(h) [title I], Oct. 18, 1986, 100 Stat. 1783–242, 1783–245, and Pub. L. 99–591, § 101(h) [title I], Oct. 30, 1986, 100 Stat. 3341–242, 3341–245.
Pub. L. 99–190, § 101(d) [title I], Dec. 19, 1985, 99 Stat. 1224, 1226.
Pub. L. 98–473, title I, § 101(c) [title I], Oct. 12, 1984, 98 Stat. 1837, 1840.
Pub. L. 98–146, title I, Nov. 4, 1983, 97 Stat. 921.
Pub. L. 97–394, title I, Dec. 30, 1982, 96 Stat. 1968.
Pub. L. 97–100, title I, Dec. 23, 1981, 95 Stat. 1393.
Pub. L. 96–514, title I, Dec. 12, 1980, 94 Stat. 2959.
Pub. L. 96–126, title I, Nov. 27, 1979, 93 Stat. 956.

### § 1753. Grazing advisory boards

#### (a) Establishment; maintenance

For each Bureau district office and National Forest headquarters office in the sixteen contiguous Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as ''office''), the Secretary and the Secretary of Agriculture, upon the petition of a simple majority of the livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one grazing advisory board of not more than fifteen advisers.

#### (b) Functions

The function of grazing advisory boards established pursuant to this section shall be to offer advice and make recommendations to the head of the office involved concerning the development of allotment management plans and the utilization of range-betterment funds.

#### (c) Appointment and terms of members

The number of advisers on each board and the number of years an adviser may serve shall be determined by the Secretary concerned in his discretion. Each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned.

#### (d) Meetings

Each grazing advisory board shall meet at least once annually.

#### (e) Federal Advisory Committee Act applicability

Except as may be otherwise provided by this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770) shall apply to grazing advisory boards.

#### (f) Expiration date

The provisions of this section shall expire December 31, 1985.

(Pub. L. 94–579, title IV, § 403, Oct. 21, 1976, 90 Stat. 2775; Pub. L. 95–514, § 10, Oct. 25, 1978, 92 Stat. 1808.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–514 substituted ''sixteen contiguous Western States'' for ''eleven contiguous Western States''.

## SUBCHAPTER V—RIGHTS-OF-WAY

### § 1761. Grant, issue, or renewal of rights-of-way

#### (a) Authorized purposes

The Secretary, with respect to the public lands (including public lands, as defined in section 1702(e) of this title, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, under, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases,

other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Energy Regulatory Commission under the Federal Power Act, including part 1[1] thereof (41 Stat. 1063, 16 U.S.C. 791a–825r).;[2]

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tunnels, tramways, airways, livestock driveways, or other means of transportation except where such facilities are constructed and maintained in connection with commercial recreation facilities on lands in the National Forest System; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, under, or through such lands.

**(b) Procedures applicable; administration**

(1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose those plans, contracts, agreements, or other information reasonably related to the use, or intended use, of the right-of-way, including its effect on competition, which he deems necessary to a determination, in accordance with the provisions of this Act, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary concerned, prior to granting a right-to-way[3] pursuant to this subchapter, shall require the applicant to disclose the identity of the participants in the entity, when he deems it necessary to a determination, in accordance with the provisions of this subchapter, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in the right-of-way. Such disclosures shall include, where applicable: (A) the name and address of each partner; (B) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (C) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(3) The Secretary of Agriculture shall have the authority to administer all rights-of-way granted or issued under authority of previous Acts with respect to lands under the jurisdiction of the Secretary of Agriculture, including rights-of-way granted or issued pursuant to authority given to the Secretary of the Interior by such previous Acts.

**(c) Permanent easement for water systems; issuance, preconditions, etc.**

(1) Upon receipt of a written application pursuant to paragraph (2) of this subsection from an applicant meeting the requirements of this subsection, the Secretary of Agriculture shall issue a permanent easement, without a requirement for reimbursement, for a water system as described in subsection (a)(1) of this section, traversing Federal lands within the National Forest System (''National Forest Lands''), constructed and in operation or placed into operation prior to October 21, 1976, if—

(A) the traversed National Forest lands are in a State where the appropriation doctrine governs the ownership of water rights;

(B) at the time of submission of the application the water system is used solely for agricultural irrigation or livestock watering purposes;

(C) the use served by the water system is not located solely on Federal lands;

(D) the originally constructed facilities comprising such system have been in substantially continuous operation without abandonment;

(E) the applicant has a valid existing right, established under applicable State law, for water to be conveyed by the water system;

(F) a recordable survey and other information concerning the location and characteristics of the system as necessary for proper management of National Forest lands is provided to the Secretary of Agriculture by the applicant for the easement; and

(G) the applicant submits such application on or before December 31, 1996.

(2)(A) Nothing in this subsection shall be construed as affecting any grants made by any previous Act. To the extent any such previous grant of right-of-way is a valid existing right, it shall remain in full force and effect unless an owner thereof notifies the Secretary of Agriculture that such owner elects to have a water system on such right-of-way governed by the provisions of this subsection and submits a written application for issuance of an easement pursuant to this subsection, in which case upon the issuance of an easement pursuant to this subsection such previous grant shall be deemed to have been relinquished and shall terminate.

(B) Easements issued under the authority of this subsection shall be fully transferable with all existing conditions and without the imposition of fees or new conditions or stipulations at the time of transfer. The holder shall notify the Secretary of Agriculture within sixty days of

[1] So in original. Probably should be part ''I''.

[2] So in original. The period preceding the semicolon probably should not appear.

[3] So in original. Probably should be ''right-of-way''.

any address change of the holder or change in ownership of the facilities.

(C) Easements issued under the authority of this subsection shall include all changes or modifications to the original facilities in existence as of October 21, 1976, the date of enactment of this Act.

(D) Any future extension or enlargement of facilities after October 21, 1976, shall require the issuance of a separate authorization, not authorized under this subsection.

(3)(A) Except as otherwise provided in this subsection, the Secretary of Agriculture may terminate or suspend an easement issued pursuant to this subsection in accordance with the procedural and other provisions of section 1766 of this title. An easement issued pursuant to this subsection shall terminate if the water system for which such easement was issued is used for any purpose other than agricultural irrigation or livestock watering use. For purposes of subparagraph (D) of paragraph (1) of this subsection, non-use of a water system for agricultural irrigation or livestock watering purposes for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the facilities comprising such system.

(B) Nothing in this subsection shall be deemed to be an assertion by the United States of any right or claim with regard to the reservation, acquisition, or use of water. Nothing in this subsection shall be deemed to confer on the Secretary of Agriculture any power or authority to regulate or control in any manner the appropriation, diversion, or use of water for any purpose (nor to diminish any such power or authority of such Secretary under applicable law) or to require the conveyance or transfer to the United States of any right or claim to the appropriation, diversion, or use of water.

(C) Except as otherwise provided in this subsection, all rights-of-way issued pursuant to this subsection are subject to all conditions and requirements of this Act.

(D) In the event a right-of-way issued pursuant to this subsection is allowed to deteriorate to the point of threatening persons or property and the holder of the right-of-way, after consultation with the Secretary of Agriculture, refuses to perform the repair and maintenance necessary to remove the threat to persons or property, the Secretary shall have the right to undertake such repair and maintenance on the right-of-way and to assess the holder for the costs of such repair and maintenance, regardless of whether the Secretary had required the holder to furnish a bond or other security pursuant to subsection (i) of this section.

**(d) Rights-of-way on certain Federal lands**

With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act [16 U.S.C. 791a et seq.] which is located on lands subject to a reservation under section 24 of the Federal Power Act [16 U.S.C. 818] and which did not receive a permit, right-of-way or other approval under this section prior to October 24, 1992, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act [16 U.S.C. 808], of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.

(Pub. L. 94–579, title V, § 501, Oct. 21, 1976, 90 Stat. 2776; Pub. L. 99–545, § 1(b), (c), Oct. 27, 1986, 100 Stat. 3047, 3048; Pub. L. 102–486, title XXIV, § 2401, Oct. 24, 1992, 106 Stat. 3096.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a)(4) and (d), is act June 20, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. Part I of the Act is classified generally to subchapter I (§ 791a et seq.) of chapter 12 of Title 16. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

This Act, referred to in subsecs. (b)(1) and (c)(3)(C), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–486, § 2401(1), inserted ''(including public lands, as defined in section 1702(e) of this title, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))''.

Subsec. (a)(4). Pub. L. 102–486, § 2401(2), substituted ''Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a–825r).'' for ''Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791)''. The substitution was made to reflect the probable intent of Congress, in the absence of closing quotations designating the provisions to be struck out.

Subsec. (d). Pub. L. 102–486, § 2401(3), added subsec. (d).

1986—Subsec. (b)(3). Pub. L. 99–545, § 1(c), added par. (3).

Subsec. (c). Pub. L. 99–545, § 1(b), added subsec. (c).

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with land use permits for other associated land uses issued under sections 1761, and 1763 to 1771 of this title, and such functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### § 1762. Roads

**(a) Authority to acquire, construct, and maintain; financing arrangements**

The Secretary, with respect to the public lands, is authorized to provide for the acquisition, construction, and maintenance of roads within and near the public lands in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management of such lands for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of timber and other products from the public lands, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That, where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of timber and other products from public lands shall not, except when the provisions of the second proviso of this subsection apply, be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate: *Provided further*, That when timber is offered with the condition that the purchaser thereof will build a road or roads in accordance with standards specified in the offer, the purchaser of the timber will be responsible for paying the full costs of construction of such roads.

**(b) Recordation of copies of affected instruments**

Copies of all instruments affecting permanent interests in land executed pursuant to this section shall be recorded in each county where the lands are located.

**(c) Maintenance or reconstruction of facilities by users**

The Secretary may require the user or users of a road, trail, land, or other facility administered by him through the Bureau, including purchasers of Government timber and other products, to maintain such facilities in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use. The Secretary may also require the user or users of such a facility to reconstruct the same when such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Secretary determines that maintenance or reconstruction by a user would not be practical, then the Secretary may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover the maintenance or reconstruction of roads are hereby made available until expended to cover the cost to the United States of accomplishing the purposes for which deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *And provided further*, That unexpended balances upon accomplishment of the purpose for which deposited shall be transferred to miscellaneous receipts or refunded.

**(d) Fund for user fees for delayed payment to grantor**

Whenever the agreement under which the United States has obtained for the use of, or in connection with, the public lands a right-of-way or easement for a road or an existing road or the right to use an existing road provides for delayed payments to the Government's grantor, any fees or other collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.

(Pub. L. 94–579, title V, § 502, Oct. 21, 1976, 90 Stat. 2777.)

### § 1763. Right-of-way corridors; criteria and procedures applicable for designation

In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary concerned the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this Act. In designating right-of-way corridors and in determining whether to require that rights-of-way be confined to them, the Secretary concerned shall take into consideration national and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary concerned shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(Pub. L. 94–579, title V, § 503, Oct. 21, 1976, 90 Stat. 2778.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with land use permits for other associated land uses issued under sections 1761, and 1763 to 1771 of this title, and such functions of Secretary or other official in Department of the Interior related to compliance with land use permits for temporary use of public lands and other associated land uses, issued under sections 1732, 1761, and 1763 to 1771 of this title, with respect to pre-construction, construction, and initial operation of transportation systems for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alas-

ka Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102–486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

### § 1764. General requirements

**(a) Boundary specifications; criteria; temporary use of additional lands**

The Secretary concerned shall specify the boundaries of each right-of-way as precisely as is practical. Each right-of-way shall be limited to the ground which the Secretary concerned determines (1) will be occupied by facilities which constitute the project for which the right-of-way is granted, issued, or renewed, (2) to be necessary for the operation or maintenance of the project, (3) to be necessary to protect the public safety, and (4) will do no unnecessary damage to the environment. The Secretary concerned may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

**(b) Terms and conditions of right-of-way or permit**

Each right-of-way or permit granted, issued, or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project. In determining the duration of a right-of-way the Secretary concerned shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The right-of-way shall specify whether it is or is not renewable and the terms and conditions applicable to the renewal.

**(c) Applicability of regulations or stipulations**

Rights-of-way shall be granted, issued, or renewed pursuant to this subchapter under such regulations or stipulations, consistent with the provisions of this subchapter or any other applicable law, and shall also be subject to such terms and conditions as the Secretary concerned may prescribe regarding extent, duration, survey, location, construction, maintenance, transfer or assignment, and termination.

**(d) Submission of plan of construction, operation, and rehabilitation by new project applicants; plan requirements**

The Secretary concerned prior to granting or issuing a right-of-way pursuant to this subchapter for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by that Secretary, including the terms and conditions required under section 1765 of this title.

**(e) Regulatory requirements for terms and conditions; revision and applicability of regulations**

The Secretary concerned shall issue regulations with respect to the terms and conditions that will be included in rights-of-way pursuant to section 1765 of this title. Such regulations shall be regularly revised as needed. Such regulations shall be applicable to every right-of-way granted or issued pursuant to this subchapter and to any subsequent renewal thereof, and may be applicable to rights-of-way not granted or issued, but renewed pursuant to this subchapter.

**(f) Removal or use of mineral and vegetative materials**

Mineral and vegetative materials, including timber, within or without a right-of-way, may be used or disposed of in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws or for emergency repair work necessary for those rights-of-way authorized under section 1761(c) of this title.

**(g) Rental payments; amount, waiver, etc.**

The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder. The Secretary concerned may, by regulation or prior to promulgation of such regulations, as a condition of a right-of-way, require an applicant for or holder of a right-of-way to reimburse the United States for all reasonable administrative and other costs incurred in processing an application for such right-of-way and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such right-of-way: *Provided, however*, That the Secretary concerned need not secure reimbursement in any situation where there is in existence a cooperative cost share right-of-way program between the United States and the holder of a right-of-way. Rights-of-way may be granted, issued, or renewed to a Federal, State, or local government or any agency or instrumentality thereof, to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profitmaking corporations or business enterprises, or to a holder where he provides without or at reduced charges a valuable benefit to the public or to the programs of the Secretary concerned, or to a holder in connection with the authorized use or occupancy of Federal land for which the United States is already receiving compensation for

such lesser charge, including free use as the Secretary concerned finds equitable and in the public interest. Such rights-of-way issued at less than fair market value are not assignable except with the approval of the Secretary issuing the right-of-way. The moneys received for reimbursement of reasonable costs shall be deposited with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities eligible for financing pursuant to the Rural Electrification Act of 1936, as amended [7 U.S.C. 901 et seq.], determined without regard to any application requirement under that Act, or any extensions from such facilities: *Provided*, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.

**(h) Liability for damage or injury incurred by United States for use and occupancy of rights-of-way; indemnification of United States; no-fault liability; amount of damages**

(1) The Secretary concerned shall promulgate regulations specifying the extent to which holders of rights-of-way under this subchapter shall be liable to the United States for damage or injury incurred by the United States caused by the use and occupancy of the rights-of-way. The regulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liabilities, damages, or claims caused by their use and occupancy of the rights-of-way.

(2) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

**(i) Bond or security requirements**

Where he deems it appropriate, the Secretary concerned may require a holder of a right-of-way to furnish a bond, or other security, satisfactory to him to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary concerned.

**(j) Criteria for grant, issue, or renewal of right-of-way**

The Secretary concerned shall grant, issue, or renew a right-of-way under this subchapter only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this subchapter.

(Pub. L. 94–579, title V, § 504, Oct. 21, 1976, 90 Stat. 2778; Pub. L. 98–300, May 25, 1984, 98 Stat. 215; Pub. L. 99–545, § 2, Oct. 27, 1986, 100 Stat. 3048; Pub. L. 104–333, div. I, title X, § 1032(a), Nov. 12, 1996, 110 Stat. 4239.)

REFERENCES IN TEXT

The Rural Electrification Act of 1936, referred to in subsec. (g), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§ 901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

AMENDMENTS

1996—Subsec. (g). Pub. L. 104–333 substituted ''eligible for financing pursuant to the Rural Electrification Act of 1936, as amended, determined without regard to any application requirement under that Act,'' for ''financed pursuant to the Rural Electrification Act of 1936, as amended,''.

1986—Subsec. (f). Pub. L. 99–545, § 2(1), inserted before the period at end ''or for emergency repair work necessary for those rights-of-way authorized under section 1761(c) of this title''.

Subsec. (g). Pub. L. 99–545, § 2(2), substituted ''The holder of a right-of-way shall pay in advance the fair market value thereof, as determined by the Secretary granting, issuing, or renewing such right-of-way. The Secretary concerned may require either annual payment or a payment covering more than one year at a time except that private individuals may make at their option either annual payments or payments covering more than one year if the annual fee is greater than one hundred dollars. The Secretary concerned may waive rentals where a right-of-way is granted, issued or renewed in consideration of a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.'' for ''The holder of a right-of-way shall pay annually in advance the fair market value thereof as determined by the Secretary granting, issuing, or renewing such right-of-way: *Provided*, That when the annual rental is less than $100, the Secretary concerned may require advance payment for more than one year at a time: *Provided further*, That the Secretary concerned may waive rentals where a right-of-way is granted, issued, or renewed in reciprocation for a right-of-way conveyed to the United States in connection with a cooperative cost share program between the United States and the holder.''

1984—Subsec. (g). Pub. L. 98–300 inserted at end ''Rights-of-way shall be granted, issued, or renewed, without rental fees, for electric or telephone facilities financed pursuant to the Rural Electrification Act of 1936, as amended, or any extensions from such facilities: *Provided*, That nothing in this sentence shall be construed to affect the authority of the Secretary granting, issuing, or renewing the right-of-way to require reimbursement of reasonable administrative and other costs pursuant to the second sentence of this subsection.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1032(b) of Pub. L. 104–333 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to rights-of-way leases held on or after the date of enactment of this Act [Nov. 12, 1996].''

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

## § 1765. Terms and conditions

Each right-of-way shall contain—

(a) terms and conditions which will (i) carry out the purposes of this Act and rules and regulations issued thereunder; (ii) minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment; (iii) require compliance with applicable air and water quality standards established by or pursuant to applicable Federal or

State law; and (iv) require compliance with State standards for public health and safety, environmental protection, and siting, construction, operation, and maintenance of or for rights-of-way for similar purposes if those standards are more stringent than applicable Federal standards; and

(b) such terms and conditions as the Secretary concerned deems necessary to (i) protect Federal property and economic interests; (ii) manage efficiently the lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the lands adjacent to or traversed by such right-of-way; (iii) protect lives and property; (iv) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes; (v) require location of the right-of-way along a route that will cause least damage to the environment, taking into consideration feasibility and other relevant factors; and (vi) otherwise protect the public interest in the lands traversed by the right-of-way or adjacent thereto.

(Pub. L. 94–579, title V, § 505, Oct. 21, 1976, 90 Stat. 2780.)

REFERENCES IN TEXT

This Act, referred to in par. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

### § 1766. Suspension or termination; grounds; procedures applicable

Abandonment of a right-of-way or noncompliance with any provision of this subchapter condition of the right-of-way, or applicable rule or regulation of the Secretary concerned may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and, and[1] with respect to easements, an appropriate administrative proceeding pursuant to section 554 of title 5, the Secretary concerned determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary concerned determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary concerned shall give written notice to the holder of the grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this subchapter condition, rule, or regulation as the case may be. Failure of the holder of the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way except that where the failure of the holder to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary concerned is not required to commence proceedings to suspend or terminate the right-of-way.

(Pub. L. 94–579, title V, § 506, Oct. 21, 1976, 90 Stat. 2780.)

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

### § 1767. Rights-of-way for Federal departments and agencies

(a) The Secretary concerned may provide under applicable provisions of this subchapter for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of such department or agency.

(Pub. L. 94–579, title V, § 507, Oct. 21, 1976, 90 Stat. 2781.)

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

### § 1768. Conveyance of lands covered by right-of-way; terms and conditions

If under applicable law the Secretary concerned decides to transfer out of Federal ownership any lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576; 30 U.S.C. 185), the lands may be conveyed subject to the right-of-way; however, if the Secretary concerned determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this subchapter will be carried out, the terms and conditions of the right-of-way complied with, or the lands protected, he shall (a) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (b) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

(Pub. L. 94–579, title V, § 508, Oct. 21, 1976, 90 Stat. 2781.)

REFERENCES IN TEXT

Act of November 16, 1973, referred to in text, is Pub. L. 93–153, Nov. 16, 1973, 87 Stat. 576. For complete classification of this Act to the Code, see Tables.

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

[1] So in original.

### § 1769. Existing right-of-way or right-of-use unaffected; exceptions; rights-of-way for railroad and appurtenant communication facilities; applicability of existing terms and conditions

(a) Nothing in this subchapter shall have the effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted. However, with the consent of the holder thereof, the Secretary concerned may cancel such a right-of-way or right-of-use and in its stead issue a right-of-way pursuant to the provisions of this subchapter.

(b) When the Secretary concerned issues a right-of-way under this subchapter for a railroad and appurtenant communication facilities in connection with a realinement of a railroad on lands under his jurisdiction by virtue of a right-of-way granted by the United States, he may, when he considers it to be in the public interest and the lands involved are not within an incorporated community and are of approximately equal value, notwithstanding the provisions of this subchapter, provide in the new right-of-way the same terms and conditions as applied to the portion of the existing right-of-way relinquished to the United States with respect to the payment of annual rental, duration of the right-of-way, and the nature of the interest in lands granted. The Secretary concerned or his delegate shall take final action upon all applications for the grant, issue, or renewal of rights-of-way under subsection (b) of this section no later than six months after receipt from the applicant of all information required from the applicant by this subchapter.

(Pub. L. 94–579, title V, § 509, Oct. 21, 1976, 90 Stat. 2781.)

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

### § 1770. Applicability of provisions to other Federal laws

**(a) Right-of-way**

Effective on and after October 21, 1976, no right-of-way for the purposes listed in this subchapter shall be granted, issued, or renewed over, upon, under, or through such lands except under and subject to the provisions, limitations, and conditions of this subchapter: *Provided*, That nothing in this subchapter shall be construed as affecting or modifying the provisions of sections 532 to 538 of title 16 and in the event of conflict with, or inconsistency between, this subchapter and sections 532 to 538 of title 16, the latter shall prevail: *Provided further*, That nothing in this Act should be construed as making it mandatory that, with respect to forest roads, the Secretary of Agriculture limit rights-of-way grants or their term of years or require disclosure pursuant to section 1761(b) of this title or impose any other condition contemplated by this Act that is contrary to present practices of that Secretary under sections 532 to 538 of title 16. Any pending application for a right-of-way under any other law on the effective date of this section shall be considered as an application under this subchapter. The Secretary concerned may require the applicant to submit any additional information he deems necessary to comply with the requirements of this subchapter.

**(b) Highway use**

Nothing in this subchapter shall be construed to preclude the use of lands covered by this subchapter for highway purposes pursuant to sections 107 and 317 of title 23.

**(c) Application of antitrust laws**

(1) Nothing in this subchapter shall be construed as exempting any holder of a right-of-way issued under this subchapter from any provision of the antitrust laws of the United States.

(2) For the purposes of this subsection, the term ''antitrust laws'' includes the Act of July 2, 1890 (26 Stat. 15 U.S.C. 1 et seq.); the Act of October 15, 1914 (38 Stat. 730, 15 U.S.C. 12 et seq.); the Federal Trade Commission Act (38 Stat. 717; 15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894 [15 U.S.C. 8, 9].

(Pub. L. 94–579, title V, § 510, Oct. 21, 1976, 90 Stat. 2782.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in subsec. (a), probably means the date of enactment of this section by Pub. L. 94–579, which was approved Oct. 21, 1976.

Act of July 2, 1890, referred to in subsec. (c)(2), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

Act of October 15, 1914, referred to in subsec. (c)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, which is classified generally to sections 12, 13, 14 to 19, 21, and 22 to 27 of Title 15, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act, referred to in subsec. (c)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

Sections 73 and 74 of the Act of August 27, 1894, referred to in subsec. (c), are sections 73 and 74 of act Aug. 27, 1894, ch. 349, 28 Stat. 570, which are classified to sections 8 and 9 of Title 15.

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

### § 1771. Coordination of applications

Applicants before Federal departments and agencies other than the Department of the Interior or Agriculture seeking a license, certificate, or other authority for a project which involve a right-of-way over, upon, under, or through public land or National Forest System lands must simultaneously apply to the Secretary concerned for the appropriate authority to use public lands or National Forest System lands and submit to the Secretary concerned all information furnished to the other Federal department or agency.

(Pub. L. 94–579, title V, § 511, Oct. 21, 1976, 90 Stat. 2782.)

TRANSFER OF FUNCTIONS

See note set out under section 1763 of this title.

## SUBCHAPTER VI—DESIGNATED MANAGEMENT AREAS

### § 1781. California Desert Conservation Area

**(a) Congressional findings**

The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, educational, recreational, and economic resources that are uniquely located adjacent to an area of large population;

(2) the California desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the California desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all California desert resources can and should be provided for in a multiple use and sustained yield management plant to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the public lands in the California desert; and

(6) to insure further study of the relationship of man and the California desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided to the Secretary to facilitate effective implementation of such planning and management.

**(b) Statement of purpose**

It is the purpose of this section to provide for the immediate and future protection and administration of the public lands in the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

**(c) Description of Area**

(1) For the purpose of this section, the term ''California desert'' means the area generally depicted on a map entitled ''California Desert Conservation Area—Proposed'' dated April 1974, and described as provided in subsection (c)(2) of this section.

(2) As soon as practicable after October 21, 1976, the Secretary shall file a revised map and a legal description of the California Desert Conservation Area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

**(d) Preparation and implementation of comprehensive long-range plan for management, use, etc.**

The Secretary, in accordance with section 1712 of this title, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California Desert Conservation Area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including, but not limited to, maintenance of environmental quality, rights-of-way, and mineral development. Such plan shall be completed and implementation thereof initiated on or before September 30, 1980.

**(e) Interim program for management, use, etc.**

During the period beginning on October 21, 1976, and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California Desert Conservation Area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

**(f) Applicability of mining laws**

Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining laws on the public lands within the California Desert Conservation Area, except that all mining claims located on public lands within the California Desert Conservation Area shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this section. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the public lands of the California Desert Conservation Area against undue impairment, and to assure against pollution of the streams and waters within the California Desert Conservation Area.

**(g) Advisory Committee; establishment; functions**

(1) The Secretary, within sixty days after October 21, 1976, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as ''advisory committee'') in accordance with the provisions of section 1739 of this title.

(2) It shall be the function of the advisory committee to advise the Secretary with respect

to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

**(h) Management of lands under jurisdiction of Secretary of Agriculture and Secretary of Defense**

The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California Desert Conservation Area, in accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement in accordance with applicable authorities to protect the archeological and other values of the California Desert Conservation Area and adjacent lands.

**(i) Omitted**

**(j) Authorization of appropriations**

There are authorized to be appropriated for fiscal years 1977 through 1981 not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

(Pub. L. 94–579, title VI, §601, Oct. 21, 1976, 90 Stat. 2782.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (c)(2) and (f), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Subsec. (i) of this section, which required the Secretary to report annually to Congress on the progress in, and any problems concerning, the implementation of this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, the last item on page 107 of House Document No. 103–7.

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate, referred to in subsec. (c)(2), abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4 (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

DESERT LILY SANCTUARY

Pub. L. 103–433, title I, §107, Oct. 31, 1994, 108 Stat. 4483, provided that:

''(a) DESIGNATION.—There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled 'Desert Lily Sanctuary', dated February 1986. The Secretary [of the Interior] shall administer the area to provide maximum protection to the desert lily.

''(b) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the Desert Lily Sanctuary are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.''

DINOSAUR TRACKWAY AREA OF CRITICAL ENVIRONMENTAL CONCERN

Pub. L. 103–433, title I, §108, Oct. 31, 1994, 108 Stat. 4483, provided that:

''(a) DESIGNATION.—There is hereby established the Dinosaur Trackway Area of Critical Environmental Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled 'Dinosaur Trackway Area of Critical Environmental Concern', dated July 1993. The Secretary [of the Interior] shall administer the area to preserve the paleontological resources within the area.

''(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled 'Dinosaur Trackway Mineral Withdrawal Area', dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.''

## §1781a. Acceptance of donation of certain existing permits or leases

(1) During fiscal year 2012 and thereafter, the Secretary of the Interior shall accept the donation of any valid existing permits or leases authorizing grazing on public lands within the California Desert Conservation Area. With respect to each permit or lease donated under this paragraph, the Secretary shall terminate the grazing permit or lease, ensure a permanent end (except as provided in paragraph (2)), to grazing on the land covered by the permit or lease, and make the land available for mitigation by allocating the forage to wildlife use consistent with any applicable Habitat Conservation Plan, section 10(a)(1)(B) permit, or section 7 consultation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(2) If the land covered by a permit or lease donated under paragraph (1) is also covered by another valid existing permit or lease that is not donated under such paragraph, the Secretary of the Interior shall reduce the authorized grazing level on the land covered by the permit or lease to reflect the donation of the permit or lease under paragraph (1). To ensure that there is a permanent reduction in the level of grazing on the land covered by a permit or lease donated under paragraph (1), the Secretary shall not allow grazing use to exceed the authorized level under the remaining valid existing permit or lease that is not donated.

(Pub. L. 112–74, div. E, title I, §122(b), Dec. 23, 2011, 125 Stat. 1013.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (1), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884,

which is classified principally to chapter 35 (§ 1531 et seq.) of Title 16, Conservation. Sections 10(a)(1)(B) and 7 of the Act are classified to sections 1539(a)(1)(B) and 1536, respectively, of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of Title 16 and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

### § 1782. Bureau of Land Management Wilderness Study

#### (a) Lands subject to review and designation as wilderness

Within fifteen years after October 21, 1976, the Secretary shall review those roadless areas of five thousand acres or more and roadless islands of the public lands, identified during the inventory required by section 1711(a) of this title as having wilderness characteristics described in the Wilderness Act of September 3, 1964 (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall from time to time report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness: *Provided*, That prior to any recommendations for the designation of an area as wilderness the Secretary shall cause mineral surveys to be conducted by the United States Geological Survey and the United States Bureau of Mines to determine the mineral values, if any, that may be present in such areas: *Provided further*, That the Secretary shall report to the President by July 1, 1980, his recommendations on those areas which the Secretary has prior to November 1, 1975, formally identified as natural or primitive areas. The review required by this subsection shall be conducted in accordance with the procedure specified in section 3(d) of the Wilderness Act [16 U.S.C. 1132(d)].

#### (b) Presidential recommendation for designation as wilderness

The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to designation as wilderness of each such area, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given within two years of the receipt of each report from the Secretary. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress.

#### (c) Status of lands during period of review and determination

During the period of review of such areas and until Congress has determined otherwise, the Secretary shall continue to manage such lands according to his authority under this Act and other applicable law in a manner so as not to impair the suitability of such areas for preservation as wilderness, subject, however, to the continuation of existing mining and grazing uses and mineral leasing in the manner and degree in which the same was being conducted on October 21, 1976: *Provided*, That, in managing the public lands the Secretary shall by regulation or otherwise take any action required to prevent unnecessary or undue degradation of the lands and their resources or to afford environmental protection. Unless previously withdrawn from appropriation under the mining laws, such lands shall continue to be subject to such appropriation during the period of review unless withdrawn by the Secretary under the procedures of section 1714 of this title for reasons other than preservation of their wilderness character. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.] which apply to national forest wilderness areas shall apply with respect to the administration and use of such designated area, including mineral surveys required by section 4(d)(2) of the Wilderness Act [16 U.S.C. 1133(d)(2)], and mineral development, access, exchange of lands, and ingress and egress for mining claimants and occupants.

(Pub. L. 94–579, title VI, § 603, Oct. 21, 1976, 90 Stat. 2785; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 102–285, § 10(b), May 18, 1992, 106 Stat. 172.)

REFERENCES IN TEXT

The Wilderness Act of September 3, 1964, referred to in subsecs. (a) and (c), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

This Act, referred to in subsec. (c), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Tables.

CHANGE OF NAME

"United States Geological Survey" substituted for "Geological Survey" in subsec. (a) pursuant to provision of title I of Pub. L. 102–154, set out as a note under section 31 of this title.

"United States Bureau of Mines" substituted for "Bureau of Mines" in subsec. (a) pursuant to section 10(b) of Pub. L. 102–285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30.

Pub. L. 104–134, title I, § 101(c) [title I], Apr. 26, 1996, 110 Stat. 1321–156, 1321–165; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94–579 [43 U.S.C. 1782] is hereby transferred to, and vested in, the Director of the United States Geological Survey."

### § 1783. Yaquina Head Outstanding Natural Area

#### (a) Establishment

In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "area"). The boundaries of the area are those shown on the map en-

titled ''Yaquina Head Area'', dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon.

**(b) Administration by Secretary of the Interior; management plan; quarrying permits**

(1) The Secretary of the Interior (hereinafter referred to as the ''Secretary'') shall administer the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], in such a manner as will best provide for—

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

**(c) Revocation of 1866 reservation of lands for lighthouse purposes; restoration to public lands status**

The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection (a) of this section, is hereby revoked. The lands referred to in subsection (a) of this section are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702) [43 U.S.C. 1702(e)], and shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section, except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602) [43 U.S.C. 601 et seq.].

**(d) Acquisition of lands not already in Federal ownership**

The Secretary shall, as soon as possible but in no event later than twenty-four months following March 5, 1980, acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection (a) of this section which are not in Federal ownership except that State land shall not be acquired by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended [43 U.S.C. 1701 et seq.]. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection (c) of this section except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602) [30 U.S.C. 601 et seq.]. Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection (b) of this section.

**(e) Wind energy research**

The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

**(f) Reclamation and restoration of lands affected by quarrying operations**

The Secretary shall develop and administer, in addition to any requirements imposed pursuant to subsection (b)(3) of this section, a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection (d) of this section. All revenues received by the United States in connection with quarrying operations authorized by subsection (b)(3) of this section shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection (d) of this section. After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

**(g) Authorization of appropriations**

There are hereby authorized to be appropriated in addition to that authorized by subsection (f) of this section, such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 96–199, title I, § 119, Mar. 5, 1980, 94 Stat. 71.)

REFERENCES IN TEXT

The Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602), referred to in subsecs. (c) and (d), is act July 31, 1947, ch. 406, 61 Stat. 681, as amended, which is classified generally to subchapter I (§ 601 et seq.) of chapter 15 of Title 30. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 30 and Tables.

The Federal Land Policy and Management Act of 1976, as amended, referred to in subsec. (d), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

## § 1784. Lands in Alaska; designation as wilderness; management by Bureau of Land Management pending Congressional action

Notwithstanding any other provision of law, section 1782 of this title shall not apply to any lands in Alaska. However, in carrying out his duties under sections 1711 and 1712 of this title and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act [16 U.S.C. 1131 et seq.]. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

(Pub. L. 96–487, title XIII, § 1320, Dec. 2, 1980, 94 Stat. 2487.)

REFERENCES IN TEXT

The Wilderness Act, referred to in text, is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

CODIFICATION

Section was enacted as part of the Alaska National Interest Lands Conservation Act, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

KENAI NATIVES ASSOCIATION LAND EXCHANGE

Pub. L. 104–333, div. I, title III, § 311, Nov. 12, 1996, 110 Stat. 4139, as amended by Pub. L. 106–176, title I, § 105, Mar. 10, 2000, 114 Stat. 25, provided that:

''(a) SHORT TITLE.—This section may be cited as the 'Kenai Natives Association Equity Act Amendments of 1996'.

''(b) FINDINGS AND PURPOSE.—

''(1) FINDINGS.—The Congress finds the following:

''(A) The United States Fish and Wildlife Service and Kenai Natives Association, Inc., have agreed to transfers of certain land rights, in and near the Kenai National Wildlife Refuge, negotiated as directed by Public Law 102–458 [106 Stat. 2267].

''(B) The lands to be acquired by the Service are within the area impacted by the Exxon Valdez oil spill of 1989, and these lands included important habitat for various species of fish and wildlife for which significant injury resulting from the spill has been documented through the EVOS Trustee Council restoration process. This analysis has indicated that these lands generally have value for the restoration of such injured natural resources as pink salmon, dolly varden, bald eagles, river otters, and cultural and archaeological resources. This analysis has also indicated that these lands generally have high value for the restoration of injured species that rely on these natural resources, including wilderness quality, recreation, tourism, and subsistence.

''(C) Restoration of the injured species will benefit from acquisition and the prevention of disturbances which may adversely affect their recovery.

''(D) It is in the public interest to complete the conveyances provided for in this section.

''(2) PURPOSE.—The purpose of this section is to authorize and direct the Secretary, at the election of KNA, to complete the conveyances provided for in this section.

''(c) DEFINITIONS.—For purposes of this section, the term—

''(1) 'ANCSA' means the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.);

''(2) 'ANILCA' means the Alaska National Interest Lands Conservation Act (Public Law 96–487; 94 Stat. 2371 et seq. [see Short Title note set out under section 3101 of Title 16, Conservation]);

''(3) 'conservation system unit' has the same meaning as in section 102(4) of ANILCA (16 U.S.C. 3102(4));

''(4) 'CIRI' means the Cook Inlet Region, Inc., a Native Regional Corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

''(5) 'EVOS' means the Exxon Valdez oil spill;

''(6) 'KNA' means the Kenai Natives Association, Inc., an urban corporation incorporated in the State of Alaska pursuant to the terms of ANCSA;

''(7) 'lands' means any lands, waters, or interests therein;

''(8) 'Refuge' means the Kenai National Wildlife Refuge;

''(9) 'Secretary' means the Secretary of the Interior;

''(10) 'Service' means the United States Fish and Wildlife Service; and

''(11) 'Terms and Conditions' means the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified on August 31, 1976, ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

''(d) ACQUISITION OF LANDS.—

''(1) OFFER TO KNA.—

''(A) IN GENERAL.—Subject to the availability of the funds identified in paragraph (2)(C), no later than 90 days after the date of enactment of this section [Nov. 12, 1996], the Secretary shall offer to convey to KNA the interests in land and rights set forth in paragraph (2)(B), subject to valid existing rights, in return for the conveyance by KNA to the United States of the interests in land or relinquishment of ANCSA selections set forth in paragraph (2)(A). Payment for the lands conveyed to the United States by KNA is contingent upon KNA's acceptance of the entire conveyance outlined herein.

''(B) LIMITATION.—The Secretary may not convey any lands or make payment to KNA under this section unless title to the lands to be conveyed by KNA under this section has been found by the United States to be sufficient in accordance with the provisions of section 355 of the Revised Statutes (40 U.S.C. 255) [now 40 U.S.C. 3111, 3112].

''(2) ACQUISITION LANDS.—

''(A) LANDS TO BE CONVEYED TO THE UNITED STATES.—The lands to be conveyed by KNA to the United States, or the valid selection rights under ANCSA to be relinquished, all situated within the boundary of the Refuge, are the following:

''(i) The conveyance of approximately 803 acres located along and on islands within the Kenai River, known as the Stephanka Tract.

''(ii) The conveyance of approximately 1,243 acres located along the Moose River, known as the Moose River Patented Lands Tract.

''(iii) The relinquishment of KNA's selection known as the Moose River Selected Tract, containing approximately 753 acres located along the Moose River.

''(iv) The relinquishment of KNA's remaining ANCSA entitlement of approximately 454 acres.

''(v) The relinquishment of all KNA's remaining overselections. Upon completion of all relinquishments outlined above, all KNA's entitlement shall be deemed to be extinguished and the completion of this acquisition will satisfy all of KNA's ANCSA entitlement.

''(vi) The conveyance of an access easement providing the United States and its assigns access across KNA's surface estate in the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska.

''(vii) The conveyance of approximately 100 acres within the Beaver Creek Patented Tract, which is contiguous to lands being retained by the United States contiguous to the Beaver Creek Patented Tract, in exchange for 280 acres of Service lands currently situated within the Beaver Creek Selected Tract.

''(B) LANDS TO BE CONVEYED TO KNA.—The rights provided or lands to be conveyed by the United States to KNA, are the following:

''(i) The surface and subsurface estate to approximately 5 acres, subject to reservations of easements for existing roads and utilities, located within the city of Kenai, Alaska, identified as United States Survey 1435, withdrawn by Executive Order 2943 and known as the old Fish and Wildlife Service Headquarters site.

''(ii) The remaining subsurface estate held by the United States to approximately 13,651 acres, including portions of the Beaver Creek Patented Tract, the Beaver Creek Selected Tract, and portions of the Swanson River Road West Tract and the Swanson River Road East Tract, where the surface was previously or will be conveyed to KNA pursuant to this Act but excluding the SW¼ of section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, which will be retained by the United States. The conveyance of these subsurface interests will be subject to the rights of CIRI to the coal, oil, gas, and to all rights CIRI, its successors, and assigns would have under paragraph 1(B) of the Terms and Conditions, including the right to sand and gravel, to construct facilities, to have rights-of-way, and to otherwise develop it subsurface interests.

''(iii)(I) The nonexclusive right to use sand and gravel which is reasonably necessary for on-site development without compensation or permit on those portions of the Swanson River Road East Tract, comprising approximately 1,738.04 acres; where the entire subsurface of the land is presently owned by the United States. The United States shall retain the ownership of all other sand and gravel located within the subsurface and KNA shall not sell or dispose of such sand and gravel.

''(II) The right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate.

''(iv) The nonexclusive right to excavate within the subsurface estate as reasonably necessary for structures, utilities, transportation systems, and other development of the surface estate on the SW¼, section 21, T. 6 N., R. 9 W., Seward Meridian, Alaska, where the entire subsurface of the land is owned by the United States and which public lands shall continue to be withdrawn from mining following their removal from the Refuge boundary under paragraph (3)(A)(ii). The United States shall retain the ownership of all other sand and gravel located within the subsurface of this parcel.

''(v) The surface estate of approximately 280 acres known as the Beaver Creek Selected Tract. This tract shall be conveyed to KNA in exchange for lands conveyed to the United States as described in paragraph (2)(A)(ii).

''(C) PAYMENT.—The United States shall make a total cash payment to KNA for the above-described lands of $4,443,000, contingent upon the appropriate approvals of the Federal or State of Alaska EVOS Trustees (or both) necessary for any expenditure of the EVOS settlement funds.

''(D) NATIONAL REGISTER OF HISTORIC PLACES.—Upon completion of the acquisition authorized in paragraph (1), the Secretary shall, at no cost to KNA, in coordination with KNA, promptly undertake to nominate the Stephanka Tract to the National Register of Historic Places, in recognition of the archaeological artifacts from the original Dena'ina Settlement. If the Department of the Interior establishes a historical, cultural, or archaeological interpretive site, KNA shall have the exclusive right to operate a Dena'ina interpretive site on the Stephanka Tract under the regulations and policies of the department. If KNA declines to operate such a site, the department may do so under its existing authorities. Prior to the department undertaking any archaeological activities whatsoever on the Stephanka Tract, KNA shall be consulted.

''(3) GENERAL PROVISIONS.—

''(A) REMOVAL OF KNA LANDS FROM THE NATIONAL WILDLIFE REFUGE SYSTEM.—

''(i) Effective on the date of closing for the Acquisition Lands identified in paragraph (2)(B), all lands retained by or conveyed to KNA pursuant to this section, and the subsurface interests of CIRI underlying such lands shall be automatically removed from the National Wildlife Refuge System and shall neither be considered as part of the Refuge nor subject to any laws pertaining solely to lands within the boundaries of the Refuge. The conveyance restrictions imposed by section 22(g) of ANCSA [43 U.S.C. 1621(g)] (i) shall then be ineffective and cease to apply to such interests of KNA and CIRI, and (ii) shall not be applicable to the interests received by KNA in accordance with paragraph (2)(B) or to the CIRI interests underlying them. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands retained or received in exchange by KNA in accordance with this section, including both surface and subsurface, and shall also exclude all interests currently held by CIRI. On lands within the Swanson River Road East Tract, the boundary adjustment shall only include the surface estate where the subsurface estate is retained by the United States.

''(ii)(I) The Secretary, KNA, and CIRI shall execute an agreement within 45 days of the date of enactment of this section [Nov. 12, 1996] which preserves CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, addresses CIRI's obligations under such paragraph, and adequately addresses management issues associated with the boundary adjustment set forth in this section and with the differing interests in land resulting from enactment of this section.

''(II) In the event that no agreement is executed as provided for in subclause (I), solely for the purposes of administering CIRI's rights under paragraph 1(B)(1) of the Terms and Conditions, the Secretary and CIRI shall be deemed to have retained their respective rights and obligations with respect to CIRI's subsurface interests under the requirements of the Terms and Conditions in

effect on June 18, 1996. Notwithstanding the boundary adjustments made pursuant to this section, conveyances to KNA shall be deemed to remain subject to the Secretary's and CIRI's rights and obligations under paragraph 1(B)(1) of the Terms and Conditions.

''(iii) The Secretary is authorized to acquire by purchase or exchange, on a willing seller basis only, any lands retained by or conveyed to KNA. In the event that any lands owned by KNA are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

''(iv) Nothing in this section is intended to enlarge or diminish the authorities, rights, duties, obligations, or the property rights held by CIRI under the Terms and Conditions, or otherwise except as set forth in this section. In the event of the purchase by the United States of any lands from KNA in accordance with subparagraph (A)(ii), the United States shall reassume from KNA the rights it previously held under the Terms and Conditions and the provisions in any patent implementing section 22(g) of ANCSA [43 U.S.C. 1621(g)] will again apply.

''(v) By virtue of implementation of this section, CIRI is deemed entitled to 1,207 acres of in-lieu subsurface entitlement under section 12(a)(1) of ANCSA [43 U.S.C. 1611(a)(1)]. Such entitlement shall be fulfilled in accordance with paragraph 1(B)(2)(A) of the Terms and Conditions.

''(B) MAPS AND LEGAL DESCRIPTIONS.—Maps and a legal description of the lands described above shall be on file and available for public inspection in the appropriate offices of the United States Department of the Interior, and the Secretary shall, no later than 90 days after enactment of this section, prepare a legal description of the lands described in paragraph (2)(A)(vii). Such maps and legal description shall have the same force and effect as if included in the section, except that the Secretary may correct clerical and typographical errors.

''(C) ACCEPTANCE.—KNA may accept the offer made in this section by notifying the Secretary in writing of its decision within 180 days of receipt of the offer. In the event the offer is rejected, the Secretary shall notify the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

''(D) FINAL MAPS.—Not later than 120 days after the conclusion of the acquisition authorized by paragraph (1), the Secretary shall transmit a final report and maps accurately depicting the lands transferred and conveyed pursuant to this section and the acreage and legal descriptions of such lands to the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

''(e) ADJUSTMENTS TO NATIONAL WILDERNESS SYSTEM.—Upon acquisition of lands by the United States pursuant to subsection (d)(2)(A), that portion of the Stephanka Tract lying south and west of the Kenai River, consisting of approximately 592 acres, shall be included in and managed as part of the Kenai Wilderness and such lands shall be managed in accordance with the applicable provisions of the Wilderness Act and ANILCA.

''(f) DESIGNATION OF LAKE TODATONTEN SPECIAL MANAGEMENT AREA.—

''(1) PURPOSE.—To balance the potential effects on fish, wildlife, and habitat of the removal of KNA lands from the Refuge System, the Secretary is hereby directed to withdraw, subject to valid existing rights, from location, entry, and patent under the mining laws and to create as a special management unit for the protection of fish, wildlife, and habitat, certain unappropriated and unreserved public lands, totaling approximately 37,000 acres adjacent to the west boundary of the Kanuti National Wildlife Refuge to be known as the 'Lake Todatonten Special Management Area', as depicted on the map entitled 'Proposed: Lake Todatonten Special Management Area', dated June 13, 1996, and to be managed by the Bureau of Land Management.

''(2) MANAGEMENT.—

''(A) Such designation is subject to all valid existing rights as well as the subsistence preferences provided under title VIII of ANILCA [16 U.S.C. 3111 et seq.]. Any lands conveyed to the State of Alaska shall be removed from the Lake Todatonten Special Management Area.

''(B) The Secretary may permit any additional uses of the area, or grant easements, only to the extent that such use, including leasing under the mineral leasing laws, is determined to not detract from nor materially interfere with the purposes for which the Special Management Area is established.

''(C)(i) The BLM shall establish the Lake Todatonten Special Management Area Committee. The membership of the Committee shall consist of 11 members as follows:

''(I) Two residents each from the villages of Alatna, Allakaket, Hughes, and Tanana.

''(II) One representative from each of Doyon Corporation, the Tanana Chiefs Conference, and the State of Alaska.

''(ii) Members of the Committee shall serve without pay.

''(iii) The BLM shall hold meetings of the Lake Todatonten Special Management Area Committee at least once per year to discuss management issues within the Special Management Area. The BLM shall not allow any new type of activity in the Special Management Area without first conferring with the Committee in a timely manner.

''(3) ACCESS.—The Secretary shall allow the following:

''(A) Private access for any purpose, including economic development, to lands within the boundaries of the Special Management Area which are owned by third parties or are held in trust by the Secretary for third parties pursuant to the Alaska Native Allotment Act (25 U.S.C. 336). Such rights may be subject to restrictions issued by the BLM to protect subsistence uses of the Special Management Area.

''(B) Existing public access across the Special Management Area. Section 1110(a) of ANILCA [16 U.S.C. 3170(a)] shall apply to the Special Management Area.

''(4) SECRETARIAL ORDER AND MAPS.—The Secretary shall file with the Committee on Resources [now Committee on Natural Resources] of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate, the Secretarial Order and maps setting forth the boundaries of the Area within 90 days of the completion of the acquisition authorized by this section. Once established, this Order may only be amended or revoked by Act of Congress.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''

## § 1785. Fossil Forest Research Natural Area

### (a) Establishment

To conserve and protect natural values and to provide scientific knowledge, education, and interpretation for the benefit of future generations, there is established the Fossil Forest Re-

search Natural Area (referred to in this section as the ''Area''), consisting of the approximately 2,770 acres in the Farmington District of the Bureau of Land Management, New Mexico, as generally depicted on a map entitled ''Fossil Forest'', dated June 1983.

**(b) Map and legal description**

**(1) In general**

As soon as practicable after November 12, 1996, the Secretary of the Interior shall file a map and legal description of the Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

**(2) Force and effect**

The map and legal description described in paragraph (1) shall have the same force and effect as if included in this Act.

**(3) Technical corrections**

The Secretary of the Interior may correct clerical, typographical, and cartographical errors in the map and legal description subsequent to filing the map pursuant to paragraph (1).

**(4) Public inspection**

The map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

**(c) Management**

**(1) In general**

The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall manage the Area—

(A) to protect the resources within the Area; and

(B) in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable provisions of law.

**(2) Mining**

**(A) Withdrawal**

Subject to valid existing rights, the lands within the Area are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, geothermal leasing, and mineral material sales.

**(B) Coal preference rights**

The Secretary of the Interior is authorized to issue coal leases in New Mexico in exchange for any preference right coal lease application within the Area. Such exchanges shall be made in accordance with applicable existing laws and regulations relating to coal leases after a determination has been made by the Secretary that the applicant is entitled to a preference right lease and that the exchange is in the public interest.

**(C) Oil and gas leases**

Operations on oil and gas leases issued prior to November 12, 1996, shall be subject to the applicable provisions of Group 3100 of title 43, Code of Federal Regulations (including section 3162.5–1), and such other terms, stipulations, and conditions as the Secretary of the Interior considers necessary to avoid significant disturbance of the land surface or impairment of the natural, educational, and scientific research values of the Area in existence on November 12, 1996.

**(3) Grazing**

Livestock grazing on lands within the Area may not be permitted.

**(d) Inventory**

Not later than 3 full fiscal years after November 12, 1996, the Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall develop a baseline inventory of all categories of fossil resources within the Area. After the inventory is developed, the Secretary shall conduct monitoring surveys at intervals specified in the management plan developed for the Area in accordance with subsection (e) of this section.

**(e) Management plan**

**(1) In general**

Not later than 5 years after November 12, 1996, the Secretary of the Interior shall develop and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a management plan that describes the appropriate use of the Area consistent with this subsection.

**(2) Contents**

The management plan shall include—

(A) a plan for the implementation of a continuing cooperative program with other agencies and groups for—

(i) laboratory and field interpretation; and

(ii) public education about the resources and values of the Area (including vertebrate fossils);

(B) provisions for vehicle management that are consistent with the purpose of the Area and that provide for the use of vehicles to the minimum extent necessary to accomplish an individual scientific project;

(C) procedures for the excavation and collection of fossil remains, including botanical fossils, and the use of motorized and mechanical equipment to the minimum extent necessary to accomplish an individual scientific project; and

(D) mitigation and reclamation standards for activities that disturb the surface to the detriment of scenic and environmental values.

(Pub. L. 98–603, title I, § 103, Oct. 30, 1984, 98 Stat. 3156; Pub. L. 104–333, div. I, title X, § 1022(e), Nov. 12, 1996, 110 Stat. 4213; Pub. L. 106–176, title I, § 124, Mar. 10, 2000, 114 Stat. 30.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (b)(2) and (c)(1)(B), is Pub. L. 98–603, Oct. 30, 1984, 98 Stat. 3155, as amended, known as the San Juan Basin Wilderness Protection Act of 1984. For complete classification of this Act to the Code, see Tables.

The Federal Land Policy and Management Act of 1976, as amended, referred to in subsec. (c)(1)(B), is Pub.

L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

November 12, 1996, referred to in subsec. (e)(1), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 104–333, which amended this section generally, to reflect the probable intent of Congress.

Section was enacted as part of the San Juan Basin Wilderness Protection Act of 1984, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

AMENDMENTS

2000—Subsec. (b)(1). Pub. L. 106–176, § 124(1), substituted ''Committee on Resources'' for ''Committee on Natural Resources''.

Subsec. (e)(1). Pub. L. 106–176, § 124(2), which directed amendment of par. (1) by substituting ''this subsection'' for ''this Act'', was executed by making the substitution following ''consistent with'', to reflect the probable intent of Congress.

Pub. L. 106–176, § 124(1), substituted 'Committee on Resources'' for ''Committee on Natural Resources''.

1996—Pub. L. 104–333 amended section generally. Prior to amendment, section read as follows:

''(a) In recognition of its paramount aesthetic, natural, scientific, educational, and paleontological values, the approximately two thousand seven hundred and twenty acre area in the Albuquerque District of the Bureau of Land Management, New Mexico, known as the 'Fossil Forest', as generally depicted on a map entitled 'Fossil Forest', dated June 1983, is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and geothermal leasing and all amendments thereto. The Secretary of the Interior shall administer the area in accordance with the Federal Land Policy and Management Act and shall take such measures as are necessary to ensure that no activities are permitted within the area which would significantly disturb the land surface or impair the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

''(b) Within one year of October 30, 1984, the Secretary of the Interior shall promulgate rules and regulations for the administration of the Fossil Forest area referred to in subsection (a) of this section in accordance with the provisions of this Act and shall file a copy of such rules and regulations with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

''(c) The Bureau of Land Management is hereby directed to conduct a long-range study of the Fossil Forest to determine how best to manage the area's resource values identified in subsection (a) of this section. Within eight years of October 30, 1984, the Secretary shall forward the study results and management plan for the area to Congress. During the study period and until Congress determines otherwise, the Fossil Forest area shall be managed under the provisions of this Act.''

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

## § 1786. Piedras Blancas Historic Light Station

### (a) Definitions

In this section:

**(1) Light Station**

The term ''Light Station'' means Piedras Blancas Light Station.

**(2) Outstanding Natural Area**

The term ''Outstanding Natural Area'' means the Piedras Blancas Historic Light Station Outstanding Natural Area established pursuant to subsection (c).

**(3) Public lands**

The term ''public lands'' has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1703(e)).[1]

**(4) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

### (b) Findings

Congress finds as follows:

(1) The publicly owned Piedras Blancas Light Station has nationally recognized historical structures that should be preserved for present and future generations.

(2) The coastline adjacent to the Light Station is internationally recognized as having significant wildlife and marine habitat that provides critical information to research institutions throughout the world.

(3) The Light Station tells an important story about California's coastal prehistory and history in the context of the surrounding region and communities.

(4) The coastal area surrounding the Light Station was traditionally used by Indian people, including the Chumash and Salinan Indian tribes.

(5) The Light Station is historically associated with the nearby world-famous Hearst Castle (Hearst San Simeon State Historical Monument), now administered by the State of California.

(6) The Light Station represents a model partnership where future management can be successfully accomplished among the Federal Government, the State of California, San Luis Obispo County, local communities, and private groups.

(7) Piedras Blancas Historic Light Station Outstanding Natural Area would make a significant addition to the National Landscape Conservation System administered by the Department of the Interior's Bureau of Land Management.

(8) Statutory protection is needed for the Light Station and its surrounding Federal lands to ensure that it remains a part of our historic, cultural, and natural heritage and to be a source of inspiration for the people of the United States.

### (c) Designation of the Piedras Blancas Historic Light Station Outstanding Natural Area

**(1) In general**

In order to protect, conserve, and enhance for the benefit and enjoyment of present and future generations the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of certain lands in and around the Piedras Blancas Light Station, in San Luis Obispo County, California, while allowing cer-

[1] So in original. Probably should be ''1702(e)).''

tain recreational and research activities to continue, there is established, subject to valid existing rights, the Piedras Blancas Historic Light Station Outstanding Natural Area.

**(2) Maps and legal descriptions**

The boundaries of the Outstanding Natural Area as those shown on the map entitled ''Piedras Blancas Historic Light Station: Outstanding Natural Area'', dated May 5, 2004, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State office of the Bureau of Land Management in the State of California.

**(3) Basis of management**

The Secretary shall manage the Outstanding Natural Area as part of the National Landscape Conservation System to protect the resources of the area, and shall allow only those uses that further the purposes for the establishment of the Outstanding Natural Area, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable laws.

**(4) Withdrawal**

Subject to valid existing rights, and in accordance with the existing withdrawal as set forth in Public Land Order 7501 (Oct. 12, 2001, Vol. 66, No. 198, Federal Register 52149), the Federal lands and interests in lands included within the Outstanding Natural Area are hereby withdrawn from—

(A) all forms of entry, appropriation, or disposal under the public land laws;

(B) location, entry, and patent under the public land mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

**(d) Management of the Piedras Blancas Historic Light Station Outstanding Natural Area**

**(1) In general**

The Secretary shall manage the Outstanding Natural Area in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of that area, including an emphasis on preserving and restoring the Light Station facilities, consistent with the requirements of subsection (c)(3).

**(2) Uses**

Subject to valid existing rights, the Secretary shall only allow such uses of the Outstanding Natural Area as the Secretary finds are likely to further the purposes for which the Outstanding Natural Area is established as set forth in subsection (c)(1).

**(3) Management plan**

Not later than 3 years after of[2] May 8, 2008, the Secretary shall complete a comprehensive management plan consistent with the requirements of section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to provide long-term management guidance for the public lands within the Outstanding Natural Area and fulfill the purposes for which it is established, as set forth in subsection (c)(1). The management plan shall be developed in consultation with appropriate Federal, State, and local government agencies, with full public participation, and the contents shall include—

(A) provisions designed to ensure the protection of the resources and values described in subsection (c)(1);

(B) objectives to restore the historic Light Station and ancillary buildings;

(C) an implementation plan for a continuing program of interpretation and public education about the Light Station and its importance to the surrounding community;

(D) a proposal for minimal administrative and public facilities to be developed or improved at a level compatible with achieving the resources objectives for the Outstanding Natural Area as described in paragraph (1) and with other proposed management activities to accommodate visitors and researchers to the Outstanding Natural Area; and

(E) cultural resources management strategies for the Outstanding Natural Area, prepared in consultation with appropriate departments of the State of California, with emphasis on the preservation of the resources of the Outstanding Natural Area and the interpretive, education, and long-term scientific uses of the resources, giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the Outstanding Natural Area.

**(4) Cooperative agreements**

In order to better implement the management plan and to continue the successful partnerships with the local communities and the Hearst San Simeon State Historical Monument, administered by the California Department of Parks and Recreation, the Secretary may enter into cooperative agreements with the appropriate Federal, State, and local agencies pursuant to section 307(b) of the Federal Land Management[3] Policy and Management Act of 1976 (43 U.S.C. 1737(b)).

**(5) Research activities**

In order to continue the successful partnership with research organizations and agencies and to assist in the development and implementation of the management plan, the Secretary may authorize within the Outstanding Natural Area appropriate research activities for the purposes identified in subsection (c)(1) and pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)).

**(6) Acquisition**

State and privately held lands or interests in lands adjacent to the Outstanding Natural Area and identified as appropriate for acquisi-

[2] So in original. The word ''of'' probably should not appear.

[3] So in original. The word ''Management'' probably should not appear.

tion in the management plan may be acquired by the Secretary as part of the Outstanding Natural Area only by—

(A) donation;

(B) exchange with a willing party; or

(C) purchase from a willing seller.

**(7) Additions to the Outstanding Natural Area**

Any lands or interest in lands adjacent to the Outstanding Natural Area acquired by the United States after May 8, 2008, shall be added to and administered as part of the Outstanding Natural Area.

**(8) Overflights**

Nothing in this section or the management plan shall be construed to—

(A) restrict or preclude overflights, including low level overflights, military, commercial, and general aviation overflights that can be seen or heard within the Outstanding Natural Area;

(B) restrict or preclude the designation or creation of new units of special use airspace or the establishment of military flight training routes over the Outstanding Natural Area; or

(C) modify regulations governing low-level overflights above the adjacent Monterey Bay National Marine Sanctuary.

**(9) Law enforcement activities**

Nothing in this section shall be construed to preclude or otherwise affect coastal border security operations or other law enforcement activities by the Coast Guard or other agencies within the Department of Homeland Security, the Department of Justice, or any other Federal, State, and local law enforcement agencies within the Outstanding Natural Area.

**(10) Native American uses and interests**

In recognition of the past use of the Outstanding Natural Area by Indians and Indian tribes for traditional cultural and religious purposes, the Secretary shall ensure access to the Outstanding Natural Area by Indians and Indian tribes for such traditional cultural and religious purposes. In implementing this subsection, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the Outstanding Natural Area in order to protect the privacy of traditional cultural and religious activities in such areas by the Indian tribe or Indian religious community. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996 et seq.; commonly referred to as the ''American Indian Religious Freedom Act'').

**(11) No buffer zones**

The designation of the Outstanding Natural Area is not intended to lead to the creation of protective perimeters or buffer zones around[4] area. The fact that activities outside the Outstanding Natural Area and not consistent with the purposes of this section can be seen or heard within the Outstanding Natural Area shall not, of itself, preclude such activities or uses up to the boundary of the Outstanding Natural Area.

**(e) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–229, title II, § 201, May 8, 2008, 122 Stat. 759.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(3), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (d)(3)(E), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

The National Historic Preservation Act, referred to in subsec. (d)(3)(E), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, which is classified generally to subchapter II (§ 470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

The American Indian Religious Freedom Act, referred to in subsec. (d)(10), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, which is classified to sections 1996 and 1996a 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 1996 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Consolidated Natural Resources Act of 2008, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

## § 1787. Jupiter Inlet Lighthouse Outstanding Natural Area

**(a) Definitions**

In this section:

**(1) Commandant**

The term ''Commandant'' means the Commandant of the Coast Guard.

**(2) Lighthouse**

The term ''Lighthouse'' means the Jupiter Inlet Lighthouse located in Palm Beach County, Florida.

**(3) Local Partners**

The term ''Local Partners'' includes—

(A) Palm Beach County, Florida;

(B) the Town of Jupiter, Florida;

(C) the Village of Tequesta, Florida; and

(D) the Loxahatchee River Historical Society.

**(4) Management plan**

The term ''management plan'' means the management plan developed under subsection (c)(1).

**(5) Map**

The term ''map'' means the map entitled ''Jupiter Inlet Lighthouse Outstanding Natural Area'' and dated October 29, 2007.

[4] So in original. Probably should be followed by ''the''.

**(6) Outstanding Natural Area**

The term ''Outstanding Natural Area'' means the Jupiter Inlet Lighthouse Outstanding Natural Area established by subsection (b)(1).

**(7) Public land**

The term ''public land'' has the meaning given the term ''public lands'' in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

**(8) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

**(9) State**

The term ''State'' means the State of Florida.

**(b) Establishment of the Jupiter Inlet Lighthouse Outstanding Natural Area**

**(1) Establishment**

Subject to valid existing rights, there is established for the purposes described in paragraph (2) the Jupiter Inlet Lighthouse Outstanding Natural Area, the boundaries of which are depicted on the map.

**(2) Purposes**

The purposes of the Outstanding Natural Area are to protect, conserve, and enhance the unique and nationally important historic, natural, cultural, scientific, educational, scenic, and recreational values of the Federal land surrounding the Lighthouse for the benefit of present generations and future generations of people in the United States, while—

(A) allowing certain recreational and research activities to continue in the Outstanding Natural Area; and

(B) ensuring that Coast Guard operations and activities are unimpeded within the boundaries of the Outstanding Natural Area.

**(3) Availability of map**

The map shall be on file and available for public inspection in appropriate offices of the Bureau of Land Management.

**(4) Withdrawal**

**(A) In general**

Subject to valid existing rights, subsection (e), and any existing withdrawals under the Executive orders and public land order described in subparagraph (B), the Federal land and any interests in the Federal land included in the Outstanding Natural Area are withdrawn from—

(i) all forms of entry, appropriation, or disposal under the public land laws;

(ii) location, entry, and patent under the mining laws; and

(iii) operation of the mineral leasing and geothermal leasing laws and the mineral materials laws.

**(B) Description of Executive orders**

The Executive orders and public land order described in subparagraph (A) are—

(i) the Executive Order dated October 22, 1854;

(ii) Executive Order No. 4254 (June 12, 1925); and

(iii) Public Land Order No. 7202 (61 Fed. Reg. 29758).

**(c) Management plan**

**(1) In general**

Not later than 3 years after May 8, 2008, the Secretary, in consultation with the Commandant, shall develop a comprehensive management plan in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) to—

(A) provide long-term management guidance for the public land in the Outstanding Natural Area; and

(B) ensure that the Outstanding Natural Area fulfills the purposes for which the Outstanding Natural Area is established.

**(2) Consultation; public participation**

The management plan shall be developed—

(A) in consultation with appropriate Federal, State, county, and local government agencies, the Commandant, the Local Partners, and other partners; and

(B) in a manner that ensures full public participation.

**(3) Existing plans**

The management plan shall, to the maximum extent practicable, be consistent with existing resource plans, policies, and programs.

**(4) Inclusions**

The management plan shall include—

(A) objectives and provisions to ensure—

(i) the protection and conservation of the resource values of the Outstanding Natural Area; and

(ii) the restoration of native plant communities and estuaries in the Outstanding Natural Area, with an emphasis on the conservation and enhancement of healthy, functioning ecological systems in perpetuity;

(B) objectives and provisions to maintain or recreate historic structures;

(C) an implementation plan for a program of interpretation and public education about the natural and cultural resources of the Lighthouse, the public land surrounding the Lighthouse, and associated structures;

(D) a proposal for administrative and public facilities to be developed or improved that—

(i) are compatible with achieving the resource objectives for the Outstanding Natural Area described in subsection (d)(1)(A)(ii); and

(ii) would accommodate visitors to the Outstanding Natural Area;

(E) natural and cultural resource management strategies for the Outstanding Natural Area, to be developed in consultation with appropriate departments of the State, the Local Partners, and the Commandant, with an emphasis on resource conservation in the Outstanding Natural Area and the interpretive, educational, and long-term scientific uses of the resources; and

(F) recreational use strategies for the Outstanding Natural Area, to be prepared in

consultation with the Local Partners, appropriate departments of the State, and the Coast Guard, with an emphasis on passive recreation.

**(5) Interim plan**

Until a management plan is adopted for the Outstanding Natural Area, the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) shall be in effect.

**(d) Management of the Jupiter Inlet Lighthouse Outstanding Natural Area**

**(1) Management**

**(A) In general**

The Secretary, in consultation with the Local Partners and the Commandant, shall manage the Outstanding Natural Area—

(i) as part of the National Landscape Conservation System;

(ii) in a manner that conserves, protects, and enhances the unique and nationally important historical, natural, cultural, scientific, educational, scenic, and recreational values of the Outstanding Natural Area, including an emphasis on the restoration of native ecological systems; and

(iii) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable laws.

**(B) Limitation**

In managing the Outstanding Natural Area, the Secretary shall not take any action that precludes, prohibits, or otherwise affects the conduct of ongoing or future Coast Guard operations or activities on lots 16 and 18, as depicted on the map.

**(2) Uses**

Subject to valid existing rights and subsection (e), the Secretary shall only allow uses of the Outstanding Natural Area that the Secretary, in consultation with the Commandant and Local Partners, determines would likely further the purposes for which the Outstanding Natural Area is established.

**(3) Cooperative agreements**

To facilitate implementation of the management plan and to continue the successful partnerships with local communities and other partners, the Secretary may, in accordance with section 307(b) of the Federal Land Management[1] Policy and Management Act of 1976 (43 U.S.C. 1737(b)), enter into cooperative agreements with the appropriate Federal, State, county, other local government agencies, and other partners (including the Loxahatchee River Historical Society) for the long-term management of the Outstanding Natural Area.

**(4) Research activities**

To continue successful research partnerships, pursue future research partnerships, and assist in the development and implementation of the management plan, the Secretary may, in accordance with section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)), authorize the conduct of appropriate research activities in the Outstanding Natural Area for the purposes described in subsection (b)(2).

**(5) Acquisition of land**

**(A) In general**

Subject to subparagraph (B), the Secretary may acquire for inclusion in the Outstanding Natural Area any State or private land or any interest in State or private land that is—

(i) adjacent to the Outstanding Natural Area; and

(ii) identified in the management plan as appropriate for acquisition.

**(B) Means of acquisition**

Land or an interest in land may be acquired under subparagraph (A) only by donation, exchange, or purchase from a willing seller with donated or appropriated funds.

**(C) Additions to the Outstanding Natural Area**

Any land or interest in land adjacent to the Outstanding Natural Area acquired by the United States after May 8, 2008, under subparagraph (A) shall be added to, and administered as part of, the Outstanding Natural Area.

**(6) Law enforcement activities**

Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Management Plan (including any updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects—

(A) any maritime security, maritime safety, or environmental protection mission or activity of the Coast Guard;

(B) any border security operation or law enforcement activity by the Department of Homeland Security or the Department of Justice; or

(C) any law enforcement activity of any Federal, State, or local law enforcement agency in the Outstanding Natural Area.

**(7) Future disposition of Coast Guard facilities**

If the Commandant determines, after May 8, 2008, that Coast Guard facilities within the Outstanding Natural Area exceed the needs of the Coast Guard, the Commandant may relinquish the facilities to the Secretary without removal, subject only to any environmental remediation that may be required by law.

**(e) Effect on ongoing and future Coast Guard operations**

Nothing in this section, the management plan, or the Jupiter Inlet Coordinated Resource Management Plan (including updates or amendments to the Jupiter Inlet Coordinated Resource Management Plan) precludes, prohibits, or otherwise affects ongoing or future Coast Guard operations or activities in the Outstanding Natural Area, including—

[1] So in original. The word ''Management'' probably should not appear.

(1) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the Coast Guard High Frequency antenna site on lot 16;

(2) the continued and future operation of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the military family housing area on lot 18;

(3) the continued and future use of, access to, maintenance of, and, as may be necessitated for Coast Guard missions, the expansion, enhancement, or replacement of, the pier on lot 18;

(4) the existing lease of the Jupiter Inlet Lighthouse on lot 18 from the Coast Guard to the Loxahatchee River Historical Society; or

(5) any easements or other less-than-fee interests in property appurtenant to existing Coast Guard facilities on lots 16 and 18.

**(f) Authorization of appropriations**

There are authorized to be appropriated such sums as are necessary to carry out this section.

(Pub. L. 110–229, title II, § 202, May 8, 2008, 122 Stat. 763.)

REFERENCES IN TEXT

The Executive Order dated October 22, 1854, and Executive Order No. 4254 (June 12, 1925), referred to in subsec. (b)(4)(B)(i), (ii), were not classified to the Code.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (d)(1)(A)(iii), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Consolidated Natural Resources Act of 2008, and not as part of the Federal Land Policy and Management Act of 1976 which comprises this chapter.

## CHAPTER 36—OUTER CONTINENTAL SHELF RESOURCE MANAGEMENT

Sec.
1801. Congressional findings.
1802. Congressional declaration of purposes.

SUBCHAPTER I—OFFSHORE OIL SPILL POLLUTION FUND

1811 to 1824. Repealed.

SUBCHAPTER II—FISHERMEN'S CONTINGENCY FUND

1841. Definitions.
1842. Fishermen's Contingency Fund.
1843. Duties and powers of Secretary.
1844. Burden of proof.
1845. Claims procedure.
1846, 1847. Repealed.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

1861. Repealed.
1862. Natural gas distribution.
1863. Unlawful employment practices; regulations.
1864. Disclosure of financial interests by officers and employees of Department of the Interior.
1865. Investigation of reserves of oil and gas in Outer Continental Shelf.
1866. Relationship to existing law.

### § 1801. Congressional findings

The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(11) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States, working in close cooperation with affected local governments, are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation;

(14) the oil and gas resources of the Outer Continental Shelf are limited, nonrenewable

resources which must be developed in a manner which takes into consideration the Nation's long-range energy needs and also assures adequate protection of the renewable resources of the Outer Continental Shelf which are a continuing and increasingly important source of food and protein to the Nation and the world; and

(15) funds must be made available to pay for damage to commercial fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production on the Outer Continental Shelf.

(Pub. L. 95–372, title I, § 101, Sept. 18, 1978, 92 Stat. 630.)

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–610, title I, § 1, Nov. 5, 1988, 102 Stat. 3176, provided that: ''This Act [probably should be 'This title', which amended section 1815 of this title] may be cited as the 'Outer Continental Shelf Operations Indemnification Clarification Act of 1988'.''

SHORT TITLE

Section 1 of Pub. L. 95–372 provided: ''That this Act [enacting this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amending sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 1348 and 1811 of this title] may be cited as the 'Outer Continental Shelf Lands Act Amendments of 1978'.''

### § 1802. Congressional declaration of purposes

The purposes of this chapter are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourage development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; and

(10) establish a fishermen's contingency fund to pay for damages to commercial fishing vessels and gear due to Outer Continental Shelf activities.

(Pub. L. 95–372, title I, § 102, Sept. 18, 1978, 92 Stat. 631.)

REFERENCES IN TEXT

This chapter, referred to in opening provision, was in the original ''this Act'', meaning Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, known as the Outer Continental Shelf Lands Act Amendments of 1978, which enacted this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amended sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 1348 and 1811 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

## SUBCHAPTER I—OFFSHORE OIL SPILL POLLUTION FUND

### §§ 1811 to 1824. Repealed. Pub. L. 101–380, title II, § 2004, Aug. 18, 1990, 104 Stat. 507

Section 1811, Pub. L. 95–372, title III, § 301, Sept. 18, 1978, 92 Stat. 670, defined terms used in this subchapter.

Section 1812, Pub. L. 95–372, title III, § 302, Sept. 18, 1978, 92 Stat. 672; Pub. L. 101–239, title IX, § 9001(a), Dec. 19, 1989, 103 Stat. 2470, established Offshore Oil Pollution Compensation Fund.

Section 1813, Pub. L. 95–372, title III, § 303, Sept. 18, 1978, 92 Stat. 674, provided for asserting claims for economic loss from oil pollution.

Section 1814, Pub. L. 95–372, title III, § 304, Sept. 18, 1978, 92 Stat. 675, set scope of liability of owners and operators of vessels and offshore facilities.

Section 1815, Pub. L. 95–372, title III, § 305, Sept. 18, 1978, 92 Stat. 677; Pub. L. 100–610, title I, §§ 2, 3, Nov. 5, 1988, 102 Stat. 3176, required owners and operators of offshore facilities and vessels using offshore facilities to provide evidence of financial responsibility to cover liability for oil pollution.

Section 1816, Pub. L. 95–372, title III, § 306, Sept. 18, 1978, 92 Stat. 678, provided for notification, designation, and advertisement of incidents involving vessels or offshore facilities.

Section 1817, Pub. L. 95–372, title III, § 307, Sept. 18, 1978, 92 Stat. 679, related to presentment of claims to owners, operators, guarantors, or Offshore Oil Pollution Compensation Fund.

Section 1818, Pub. L. 95–372, title III, § 308, Sept. 18, 1978, 92 Stat. 682, provided for subrogation of any person or governmental entity which paid compensation for an economic loss to all rights, claims, and causes of action which claimant had under this subchapter.

Section 1819, Pub. L. 95–372, title III, § 309, Sept. 18, 1978, 92 Stat. 683, provided for jurisdiction and venue of controversies arising under this subchapter.

Section 1820, Pub. L. 95–372, title III, § 310, Sept. 18, 1978, 92 Stat. 684, outlined relationship of this subchapter to other State or Federal laws.

Section 1821, Pub. L. 95–372, title III, § 311, Sept. 18, 1978, 92 Stat. 684, prohibited harmful discharge of oil from any offshore facility or vessel.

Section 1822, Pub. L. 95–372, title III, § 312, Sept. 18, 1978, 92 Stat. 684, set civil and criminal penalties for violations of provisions of this subchapter.

Section 1823, Pub. L. 95–372, title III, § 313, Sept. 18, 1978, 92 Stat. 685, authorized appropriations for administration of this subchapter.

Section 1824, Pub. L. 95–372, title III, § 314, Sept. 18, 1978, 92 Stat. 685, directed Secretary of Transportation to submit report annually to Congress on operation of this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101–380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

EFFECTIVE DATE

Pub. L. 95–372, title III, § 315, Sept. 18, 1978, 92 Stat. 685, which provided that such section, section 1814(e) of this title, section 1815(d) of this title, and all provisions of this subchapter authorizing the delegation of authority or the promulgation of regulations were to be effective Sept. 18, 1978, and that all other provisions of this subchapter, and rules and regulations promulgated pursuant to such provisions, were to be effective on the one hundred and eightieth day after Sept. 18, 1978, was repealed by Pub. L. 101–380, title II, § 2004, Aug. 18, 1990, 104 Stat. 507.

OFFSHORE OIL POLLUTION COMPENSATION FUND

Amounts remaining in the Offshore Oil Pollution Compensation Fund established under former section 1812 of this title to be deposited in the Oil Spill Liability Trust Fund established under section 9509 of Title 26, Internal Revenue Code, with that Fund to assume all liability incurred by the Offshore Oil Pollution Compensation Fund, see section 2004 of Pub. L. 101–380, set out as a note under section 9509 of Title 26.

## SUBCHAPTER II—FISHERMEN'S CONTINGENCY FUND

### § 1841. Definitions

As used in this subchapter, the term—

(1) ''area affected by Outer Continental Shelf activities'' means any geographic area:

(A) which is under oil or gas lease on the Outer Continental Shelf;

(B) where Outer Continental Shelf exploration, development or production activities have been permitted, except geophysical activities;

(C) where pipeline rights-of-way have been granted; or

(D) otherwise impacted by such activities including but not limited to expired lease areas, relinquished rights-of-way and easements, Outer Continental Shelf supply vessel routes, or other areas as determined by the Secretary;

(2) ''citizen of the United States'' means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State, or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of[1] therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(3) ''commercial fisherman'' means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(4) ''commercial fishing vessel'' means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(5) ''fish'' means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(6) ''fishing gear'' means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(7) ''Fund'' means the Fishermen's Contingency Fund established under section 1842 of this title; and

(8) ''Secretary'' means the Secretary of Commerce or the designee of such Secretary.

(Pub. L. 95–372, title IV, § 401, Sept. 18, 1978, 92 Stat. 685; Pub. L. 97–212, §§ 1, 8, June 30, 1982, 96 Stat. 143, 147.)

[1] So in original. The ''of'' is probably unnecessary.

AMENDMENTS

1982—Pub. L. 97–212 added par. (1), redesignated former pars. (1) to (7) as (2) to (8), respectively, and struck out ''at sea'' after ''the aiding or assisting'' in par. (4)(B) as redesignated.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 9 of Pub. L. 97–212 provided that:

''(a) Except as provided for in subsection (b), the amendments made by this Act [amending this section and sections 1842 to 1845 of this title, repealing section 1847 of this title, enacting a provision set out as a note under section 1823 of Title 16, Conservation, and amending a provision set out as a note under section 1823 of Title 16] shall apply with respect to claims for damages that are filed, on or after the date of the enactment of this Act [June 30, 1982], with the Secretary of Commerce under section 405(a) of the Outer Continental Shelf Lands Act Amendments of 1978 [section 1845(a) of this title].

''(b)(1) Any commercial fisherman who filed a claim with the Secretary of Commerce for compensation under title IV of such amendments of 1978 [this subchapter] before the date of the enactment of this Act [June 30, 1982] may, if no decision on such claim was rendered under section 405(d) of such title IV [section 1845(d) of this title] before such date of enactment [June 30, 1982], refile such claim with the Secretary if the claimant notifies the Secretary in writing within thirty days after notification under paragraph (2) of his eligibility to refile the claim that he intends to so refile. If timely notification of intent to refile is made under the preceding sentence, any action pending with respect to the original claim shall be suspended pending the refiling of the claim under paragraph (2) and, if such refiling is timely made, such action shall be vacated.

''(2) The Secretary shall notify each claimant eligible to refile a claim under paragraph (1) of such eligibility within 10 days after the date of enactment of this Act [June 30, 1982].

''(3) A claim for which notification on intent to refile was timely made under paragraph (1) must be refiled with the Secretary within the thirty-day period after the date on which the regulations promulgated to implement the amendments made by this Act become final or action shall be resumed with respect to such claim without regard to the amendments made by this Act.

''(4) The amendments made by this Act shall apply with respect to any claim that is refiled on a timely basis under paragraph (3).''

## § 1842. Fishermen's Contingency Fund

### (a) Establishment; availability; source of deposits; limitation on amount; interest-bearing accounts; litigation

(1) There is established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitations as a revolving fund for the purpose of making payments pursuant to this section. The Fund shall consist of—

(A) revenues received from investments made under paragraph (3);

(B) amounts collected under subsection (b) of this section; and

(C) amounts recovered by the Secretary under section 1845(h)(2) of this title.

The total amount in the Fund that is collected under subsection (b) of this section may at no time exceed $2,000,000; and the total amount in the Fund which is attributable to revenue received under paragraph (3) or recovered by the Secretary under section 1845(h)(2) of this title shall be expended prior to amounts collected under subsection (b) of this section. Not more than 8 percent of the total amount in the Fund may be expended in any fiscal year for paying the administrative and personnel expenses referred to in paragraph (2)(A).

(2) The Fund shall be available, as provided for in appropriation Acts solely for the payment of—

(A) the personnel and administrative expenses incurred in carrying out this subchapter;

(B) any claim, in accordance with procedures established under this section, for damages that are compensable under this subchapter; and

(C) attorney and other fees awarded under section 1845(e) of this title with respect to any such claim.

(3) Sums in the Fund that are not currently needed for the purposes of the Fund shall be kept on deposit in appropriate interest-bearing accounts that shall be established by the Secretary of the Treasury or invested in obligations of, or guaranteed by, the United States. Any revenue accruing from such deposits and investments shall be deposited into the Fund.

(4) The Fund may sue and be sued in its own name. All litigation by or against the Fund shall be referred to the Attorney General.

### (b) Payments by each holder of lease, permit, easement, or right-of-way

(1) Except as provided in paragraph (2), each holder of a lease that is issued or maintained under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] and each holder of an exploration permit, or an easement or right-of-way for the construction of a pipeline in any area of the Outer Continental Shelf, shall pay an amount specified by the Secretary. The Secretary of the Interior shall collect such amount and deposit it into the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of $5,000 per lease, permit, easement, or right-of-way.

(2) Payments may not be required under paragraph (1) by the Secretary of the Interior with respect to geological permits and geophysical permits, other than prelease exploratory drilling permits issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340).

(Pub. L. 95–372, title IV, § 402, Sept. 18, 1978, 92 Stat. 686; Pub. L. 97–212, § 2, June 30, 1982, 96 Stat. 143.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsec. (b)(1), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

AMENDMENTS

1982—Subsec. (a). Pub. L. 97–212 redesignated subsec. (a) as subsec. (a)(1) and substituted provisions relating to the source of funds, that the total amount of the Fund would not exceed $2,000,000, that the total amount in the Fund which is attributable to revenue received under par. (3) as amended or recovered by the Secretary

under section 1845(h)(2) of this title be expended prior to amounts collected under subsec. (b) as amended, and that not more than 8 percent of the total amount in the Fund be expended in any fiscal year for the paying of administrative and personnel expenses, for provisions that the amounts paid pursuant to former subsecs. (c) and (d) of this section be deposited in the Fund, and that the total amount in the Fund not exceed $1,000,000, redesignated as subsec. (a)(2) former subsec. (e), and struck out provision that the amounts disbursed for administrative or personnel expenses not exceed 15 percent of the amounts deposited in a revolving account for that fiscal year, added as subsec. (a)(3) provisions that the sums of the Fund be kept on deposit in interest-bearing accounts, and added as subsec. (a)(4) provision that all litigation be referred to the Attorney General.

Subsec. (b). Pub. L. 97–212 redesignated as subsec. (b)(1) provisions of former subsec. (c) and added as subsec. (b)(2) provision that payments not be required under par. (1) by the Secretary of the Interior with respect to geological and geophysical permits other than prelease exploratory drilling permits issued under section 1340 of this title. Former subsec. (b) relating to the establishment and maintenance of an area account within the Fund was struck out.

Subsec. (c). Pub. L. 97–212 redesignated subsec. (c) as (b)(1).

Subsec. (d). Pub. L. 97–212 struck out subsec. (d) which related to level of area account funds.

Subsec. (e). Pub. L. 97–212 redesignated subsec. (e) as (a)(2).

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97–212, set out as a note under section 1841 of this title.

## § 1843. Duties and powers of Secretary

### (a) Prescription and amendment of regulations respecting settlement of claims; identification classification of potential hazards to commercial fishing

In carrying out the provisions of this subchapter, the Secretary shall—

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this subchapter, including a time limitation of not less than 90 days on the filing of such claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this subchapter shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

### (b) Establishment of regulations respecting color coding, stamping, or labeling of equipment, tools, etc., used on Outer Continental Shelf

The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

### (c) Disbursement of payments to compensate commercial fishermen; restrictions

(1) Payments shall be disbursed by the Secretary from the Fund to compensate commercial fishermen for actual and consequential damages, including resulting economic loss, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with Outer Continental Shelf oil and gas exploration, development, or production activities. The compensation payable under this section for resulting economic loss shall be an amount equal to 50 per centum of such loss. For purposes of this subsection, the term ''resulting economic loss'' means the gross income, as estimated by the Secretary, that a commercial fisherman who is eligible for compensation under this section will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the damaged or lost fishing gear concerned is repaired or replaced and available for use.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from the Fund—

(A) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(B) if the damage set forth in the claim was sustained prior to September 18, 1978;

(C) in the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed; and

(D) for any portion of the damages claimed with respect to which the claimant has received, or will receive, compensation from insurance.

(Pub. L. 95–372, title IV, § 403, Sept. 18, 1978, 92 Stat. 687; Pub. L. 96–561, title II, § 240(b)(2), Dec. 22, 1980, 94 Stat. 3301; Pub. L. 97–212, §§ 3, 7, June 30, 1982, 96 Stat. 144, 147; Pub. L. 98–498, title IV, § 420(1), (2), Oct. 19, 1984, 98 Stat. 2309.)

REFERENCES IN TEXT

The 1981 amendments to this subchapter, referred to in subsec. (a)(1), probably means the amendments made to this subchapter in 1982 by Pub. L. 97–212, which amended sections 1841 to 1845 of this title, repealed section 1847 of this title, and enacted a provision set out as a note under section 1841 of this title. Pub. L. 97–212 also enacted a provision set out as a note under section 1823 of Title 16, Conservation, and amended a provision set out as a note under section 1823 of Title 16.

The date of enactment of such amendments, referred to in subsec. (a)(1), probably means the date of enactment of Pub. L. 97–212, which was approved June 30, 1962.

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98–498 substituted ''limitation of not less than 90 days on'' for ''limitation on''.

Subsec. (c)(1). Pub. L. 98–498 substituted ''50 percent'' for ''25 per centum''.

1982—Subsec. (a)(1). Pub. L. 97–212, § 7, substituted ''claims (except that, notwithstanding any other provision of law, final regulations implementing the 1981 amendments to this subchapter shall be published in the Federal Register within 120 days after the date of the enactment of such amendments); and'' for ''claims; and''.

Subsec. (c)(1). Pub. L. 97–212, § 3(1), substituted ''Fund'' for ''appropriate area account'' and ''resulting economic loss'' for ''loss of profits'', inserted ''Outer Continental Shelf'' after ''items associated with'', struck out ''in such area, whether or not such damage occurred in such area'' after ''production activities'', and inserted provisions that compensation payable under this section for resulting economic loss be an amount equal to 25 per centum of such loss and provision defining ''resulting economic loss'' for purposes of subsec. (c).

Subsec. (c)(2). Pub. L. 97–212, § 3(2), substituted ''the Fund'' for ''any area account established under this subchapter'' in provisions preceding subpar. (A), struck out subpars. (A) and (E) which related, respectively, to damage caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party and the party admitted responsibility and to loss of profits for any period in excess of 6 months unless such claim was supported by records with respect to the claimant's profits during the previous 12-month period, redesignated subpars. (B), (C), and (D) as (A), (B), and (C) respectively, redesignated subpar. (F) as (D), and in subpar. (D) as so redesignated, substituted ''received, or will receive,'' for ''or will receive''.

1980—Subsec. (c)(2)(A). Pub. L. 96–561 inserted reference to party admitting responsibility.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97–212, set out as a note under section 1841 of this title.

## § 1844. Burden of proof

With respect to any claim for damages filed under this subchapter, there shall be a presumption that such damages were due to activities related to oil and gas exploration, development, or production if the claimant establishes that—

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by Outer Continental Shelf activities;

(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within fifteen days after the date on which the vessel first returns to a port after discovering such damages;

(3) there was no record on the latest nautical charts or Notice to Mariners in effect at least 15 days prior to the date such damages were sustained that such material, equipment, tool, container, or other item existed where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain whether or not there was any such record of the pipeline on the damage date; and

(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

(Pub. L. 95–372, title IV, § 404, Sept. 18, 1978, 92 Stat. 688; Pub. L. 97–212, § 4, June 30, 1982, 96 Stat. 145.)

AMENDMENTS

1982—Pub. L. 97–212, § 4(1), substituted ''under this subchapter'' for ''pursuant to this subchapter'' and ''damages were due to activities related to oil and gas exploration, development, or production'' for ''claim is valid'' in provisions preceding par. (1).

Par. (2). Pub. L. 97–212, § 4(2), substituted ''fifteen days after the date on which the vessel first returns to a port after discovering such damages'' for ''five days after the date on which such damages were discovered''.

Par. (3). Pub. L. 97–212, § 4(3), inserted ''the latest'' after ''no record on'', struck out ''the'' before ''Notice to Mariners'', and substituted ''in effect at least 15 days prior to the date'' for ''on the date'' and ''where such damages occurred, except that in the case of damages caused by a pipeline, the presumption established by this section shall obtain whether or not there was any such record of the pipeline on the damage date'' for ''in such area''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97–212, set out as a note under section 1841 of this title.

## § 1845. Claims procedure

### (a) Filing requirement; time to file

Any commercial fisherman suffering damages compensable under this subchapter may file a claim for compensation with the Secretary under subsection (d)(1) of this section.

### (b) Transmittal of copy of claim to Secretary of the Interior; reference to Secretary

Upon receipt of any claim under this section, the Secretary shall transmit a copy of the claim to the Secretary of the Interior and shall take such further action regarding the claim that is required under subsection (d) of this section.

### (c) Notification to persons engaged in activities associated with Outer Continental Shelf energy activities; response of persons notified; submittal of evidence

The Secretary of the Interior shall make reasonable efforts to notify all persons known to have engaged in activities associated with Outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary and the Secretary of the Interior as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any proceeding conducted with respect to such claim.

### (d) Acceptance of claim by Secretary; time to render decision; review of initial determination

(1) The Secretary shall, under regulations prescribed pursuant to section 1843(a) of this title, specify the time, form and manner in which claims must be filed.

(2) The Secretary may not accept any claim that does not meet the filing requirements specified under paragraph (1), and shall give a claimant whose claim is not accepted written notice of the reasons for nonacceptance. Such written notice must be given to the claimant within 30 days after the date on which the claim was filed and if the claimant does not refile an acceptable claim within 30 days after the date of such writ-

ten notice, the claimant is not eligible for compensation under this subchapter for the damages concerned; except that the Secretary—

(A) shall in any case involving a good faith effort by the claimant to meet such filing requirements, or

(B) may in any case involving extenuating circumstances, accept a claim that does not meet the 30-day refiling requirement.

(3)(A) The Secretary shall make an initial determination with respect to the claim within 60 days after the day on which the claim is accepted for filing. Within 30 days after the day on which the Secretary issues an initial determination on a claim, the claimant, or any other interested person who submitted evidence relating to the initial determination, may petition the Secretary for a review of that determination.

(B) If a petition for the review of an initial determination is not filed with the Secretary within the 30-day period provided under subparagraph (A), the initial determination shall thereafter be treated as a final determination by the Secretary on the claim involved.

(C) If a petition for review of an initial determination is timely filed under subparagraph (A), the Secretary shall allow the petitioner 30 days after the day on which the petition is received to submit written or oral evidence relating to the initial determination. The Secretary shall then undertake such review and, on the basis of such review, issue a final determination no later than the 60th day after the day on which the Secretary received the petition for review of an initial determination.

**(e) Claim preparation fees; attorney's fees**

If the decision of the Secretary under subsection (d) of this section is in favor of the commercial fisherman filing the claim, the Secretary, as a part of the amount awarded, shall include reasonable claim preparation fees and reasonable attorney's fees, if any, incurred by the claimant in pursuing the claim.

**(f) Powers of Secretary**

(1) For purposes of any proceeding conducted pursuant to this section, the Secretary shall have the power to administer oaths and subpena the attendance or testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

(2) In any proceeding conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the Outer Continental Shelf, the Secretary shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under section 1847[1] of this title.

**(g) Place of proceeding**

Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) of this section shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located.

**(h) Certification and disbursement of award; subrogation of rights; payment of costs of proceedings**

(1) The amount awarded in an initial determination by the Secretary under subsection (d) of this section shall be immediately disbursed, subject to the limitations of this section, by the Secretary if the claimant—

(A) states in writing that he will not petition for review of the initial determination; and

(B) enters into an agreement with the Secretary to repay to the Secretary all or any part of the amount of the award if, after review under subsection (d)(3)(C) of this section or, if applicable, after judicial review, the amount of the award, or any part thereof, is not sustained.

(2) Upon payment of a claim by the Secretary pursuant to this subsection, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made. Any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.

(3) Any person who denies responsibility for damages with respect to which a claim is made and who is subquently[2] found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

**(i) Judicial review**

Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant.

(Pub. L. 95–372, title IV, § 405, Sept. 18, 1978, 92 Stat. 688; Pub. L. 97–212, § 5, June 30, 1982, 96 Stat. 145; Pub. L. 98–498, title IV, § 420(3), (4), Oct. 19, 1984, 98 Stat. 2309, 2310.)

REFERENCES IN TEXT

Section 1847 of this title, referred to in subsec. (f)(2), was repealed by Pub. L. 97–212, § 6(a), June 30, 1982, 96 Stat. 147.

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–498 substituted ''under subsection (d)(1) of this section'' for '', except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made''.

Subsec. (d)(1). Pub. L. 98–498 inserted ''time,'' before ''form''.

[1] See References in Text note below.

[2] So in original. Probably should be ''subsequently''.

1982—Subsec. (b). Pub. L. 97–212, § 5(1), struck out pars. (1) and (2) designations, and substituted ''shall take such further action regarding the claim that is required under subsection (d) of this section'' for ''refer such matter to a hearing examiner appointed under section 3105 of title 5''.

Subsec. (c). Pub. L. 97–212, § 5(2), substituted ''proceeding'' for ''hearing''.

Subsec. (d). Pub. L. 97–212, § 5(3), substituted provisions relating to the filing of claims with the Secretary of the Interior in order to be eligible for compensation under this subchapter, the time for such filing, the time in which the Secretary must make his initial determination with respect to the claim, and the submission of evidence by the petitioner when reviewing an initial determination by the Secretary, for provisions relating to the time in which a hearing examiner has to render a decision.

Subsec. (e). Pub. L. 97–212, § 5(4), substituted provisions that if the decision of the Secretary is in favor of the commercial fisherman filing the claim, the Secretary shall award to such claimant reasonable attorney's fees and claim preparation fees incurred by claimant in pursuing such claim for provisions that upon a decision in favor of the claimant fisherman, the hearing examiner include in the award reasonable attorney's fees incurred by the claimant in pursuing such claim.

Subsec. (f). Pub. L. 97–212, § 5(5), substituted ''the Secretary'' for ''hearing examiner'' and ''proceeding'' for ''hearing'' wherever appearing. The amendment which directed the substitution of ''the Secretary'' for ''hearing examiner'' was executed by substituting ''the Secretary'' for ''the hearing examiner'', as the probable intent of Congress, to avoid repeating the article ''the'' before ''Secretary'' in two places.

Subsec. (g). Pub. L. 97–212, § 5(6), substituted ''Any proceeding conducted with respect to an initial determination on a claim under subsection (d)(3)(A) of this section shall be conducted within such United States judicial district as may be mutually agreeable to the claimant and the Secretary or, if no agreement can be reached, within the United States judicial district in which the home port of the claimant is located'' for ''A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district''.

Subsec. (h)(1). Pub. L. 97–212, § 5(7)(A), substituted provisions that the amount awarded in an initial determination by the Secretary under subsec. (d) be immediately disbursed by the Secretary if the claimant states in writing that he will not petition for review of the initial determination and he enters into an agreement with the Secretary to repay to the Secretary all or any part of the award that is not sustained upon later judicial review for provisions that upon a decision of the hearing examiner and in absence of judicial review, any amount to be paid would be certified to the Secretary who would promptly disburse the award and that such decision of the hearing examiner was not reviewable by the Secretary.

Subsec. (h)(2). Pub. L. 97–212, § 5(7)(B), inserted provision that any moneys recovered by the Secretary through subrogation shall be deposited into the Fund.

Subsec. (i). Pub. L. 97–212, § 5(8), substituted ''Any claimant or other person who suffers a legal wrong or who is adversely affected or aggrieved by a final determination of the Secretary under subsection (d) of this section, may, no later than 30 days after such determination is made, seek judicial review of the determination in the United States district court for such United States judicial district as may be mutually agreeable to the parties concerned or, if no agreement can be reached, in the United States district court for the United States judicial district in which is located the home port of the claimant'' for ''Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit''.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–212 applicable with respect to claims for damages filed on or after June 30, 1982, with the Secretary of Commerce under section 1845(a) of this title, with provision for the refiling of previously filed claims under certain circumstances, see section 9 of Pub. L. 97–212, set out as a note under section 1841 of this title.

COMPENSATION FOR CERTAIN FISHING VESSEL AND GEAR DAMAGE; APPLICATION

Authority to owners or operators of fishing vessels and commercial fishermen failing to make application for compensation within the time limitations of this section or section 1980 of Title 22, Foreign Relations and Intercourse, to make application for compensation within the 60-day period beginning on Dec. 22, 1980, see section 240(a), (b)(1) of Pub. L. 96–561, title II, Dec. 22, 1980, 94 Stat. 3300, set out as a note under section 1980 of Title 22.

### § 1846. Repealed. Pub. L. 104–66, title I, § 1021(f), Dec. 21, 1995, 109 Stat. 713

Section, Pub. L. 95–372, title IV, § 406, Sept. 18, 1978, 92 Stat. 689, directed Secretary to submit annual reports to Congress setting forth Fishermen's Contingency Fund damage descriptions and compensation amounts and, in first annual report, to evaluate feasibility of (1) fine or penalty impositions, or (2) bonding requirements.

### § 1847. Repealed. Pub. L. 97–212, § 6(a), June 30, 1982, 96 Stat. 147

Section, Pub. L. 95–372, title IV, § 407, Sept. 18, 1978, 92 Stat. 690, related to survey of obstructions on Outer Continental Shelf and development of charts for commercial fishermen.

EFFECTIVE DATE OF REPEAL

Repeal effective June 30, 1982, and applicable with respect to claims for damages filed on or after such date, with the Secretary of Commerce under section 1845(a) of this title, see section 9(a) of Pub. L. 97–212, set out as an Effective Date of 1982 Amendment note under section 1841.

## SUBCHAPTER III—MISCELLANEOUS PROVISIONS

### § 1861. Repealed. Pub. L. 99–367, § 2(b), July 31, 1986, 100 Stat. 774

Section, Pub. L. 95–372, title VI, § 601, Sept. 18, 1978, 92 Stat. 693, required Secretary of the Interior, within six months of Sept. 18, 1978, and in his annual report thereafter, to report to Comptroller General on shut-in and flaring oil and gas wells and required Comptroller General, within six months after receipt of report, to review and evaluate methodology used by Secretary in allowing wells to be shut-in or flare natural gas and submit his findings and recommendations to Congress.

### § 1862. Natural gas distribution

#### (a) Expanded participation by local distribution companies in acquisition of leases and development of natural gas resources

The purpose of this section is to encourage expanded participation by local distribution com-

panies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.

**(b) Application and issuance of certificates of public convenience and necessity for transportation of natural gas**

The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for, and, as appropriate, issue certificates of public convenience and necessity, pursuant to section 717f of title 15, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determing—[1]

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 717f of title 15, the issuance of a certificate of transportation under such statement of policy. To the maximum extent practicable, such statement shall be promulgated and published within one year after September 18, 1978.

**(c) Definitions**

For purposes of this section, the term—

(1) ''local distribution company'' means any person—

(A) engaged in the distribution of natural gas at retail, including any subsidiary or affiliate thereof engaged in the exploration and production of natural gas; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof;

(2) ''interstate commerce'' shall have the same meaning as such term has under section 717a(7) of title 15; and

(3) ''Commission'' means the Federal Energy Regulatory Commission.

(Pub. L. 95–372, title VI, § 603, Sept. 18, 1978, 92 Stat. 694.)

## § 1863. Unlawful employment practices; regulations

Each agency or department given responsibility for the promulgation or enforcement of regulations under this chapter or the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.] shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this chapter or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, whether through agency and department provisions or rules, shall be similar to those established and in effect under title VI and title VII of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq., 2000e et seq.].

(Pub. L. 95–372, title VI, § 604, Sept. 18, 1978, 92 Stat. 695.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, as amended, known as the Outer Continental Shelf Lands Act Amendments of 1978, which enacted this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amended sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 1348 and 1811 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Outer Continental Shelf Lands Act, referred to in text, is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI and VII of the Civil Rights Act of 1964 are classified generally to subchapters V (§ 2000d et seq.) and VI (§ 2000e et seq.) of chapter 21 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 2000a of Title 42 and Tables.

## § 1864. Disclosure of financial interests by officers and employees of Department of the Interior

**(a) Annual written statement**

Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this chapter or the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.], as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this chapter or the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.],

shall, beginning on February 1, 1979, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceeding[1]

[1] So in original. Probably should be ''determining—''.

[1] So in original. Probably should be ''preceding''.

calendar year. Such statement shall be available to the public.

**(b) "Known financial interest" defined; enforcement; report to Congress**

The Secretary of the Interior shall—

(1) within ninety days after September 18, 1978—

(A) define the term ''known financial interest'' for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

**(c) Officers and employees in nonregulatory or nonpolicymaking positions**

In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

**(d) Penalties**

Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

(Pub. L. 95–372, title VI, § 605, Sept. 18, 1978, 92 Stat. 695.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), (2), was in the original ''this Act'', meaning Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, as amended, known as the Outer Continental Shelf Lands Act Amendments of 1978, which enacted this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amended sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 1348 and 1811 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

This Act, referred to in subsec. (a)(1), is Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, as amended. See note above.

The Outer Continental Shelf Lands Act, referred to in subsec. (a)(1), (2), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(2) of this section relating to the requirement that the Secretary of the Interior report to Congress on June 1 of each calendar year, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 16th item on page 111 of House Document No. 103–7.

## § 1865. Investigation of reserves of oil and gas in Outer Continental Shelf

The Secretary of the Interior shall conduct a continuing investigation to determine an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf.

The Secretary of the Interior shall provide a biennial report to Congress on June 30 of every odd numbered year on the results of such investigation.

(Pub. L. 95–372, title VI, § 606, as added Pub. L. 99–367, § 2(c), July 31, 1986, 100 Stat. 774.)

PRIOR PROVISIONS

A prior section 1865, Pub. L. 95–372, title VI, § 606, Sept. 18, 1978, 92 Stat. 696, directed Secretary of the Interior to conduct a continuing investigation of reserves of oil and gas in the Outer Continental Shelf, specified items to be included in the investigation, provided for initial and subsequent reports to Congress, and required consultation with the Federal Trade Commission and information to be made available to the Federal Trade Commission, prior to repeal by Pub. L. 99–367, § 2(c).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to the requirement that the Secretary of the Interior provide a biennial report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and the 17th item on page 111 of House Document No. 103–7.

## § 1866. Relationship to existing law

(a) Except as otherwise expressly provided in this chapter, nothing in this chapter shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972 [16 U.S.C. 1451 et seq.], the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], the Mining and Mineral Policy Act of 1970 [30 U.S.C. 21a], or any other Act.

(b) Nothing in this chapter or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

(Pub. L. 95–372, title VI, § 608, Sept. 18, 1978, 92 Stat. 698.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, as amended, known as the Outer Continental Shelf Lands Act Amendments of 1978, which enacted this chapter, sections 1344 to 1356 of this title, and section 237 of Title 30, Mineral Lands and Mining, amended sections 1331 to 1334, 1337, 1340, and 1343 of this title, sections 1456, 1456a, and 1464 of Title 16, Conservation, and section 6213 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sec-

tions 1348 and 1811 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Coastal Zone Management Act of 1972, referred to in subsec. (a), is title III of Pub. L. 89–454 as added by Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280, as amended, which is classified generally to chapter 33 (§ 1451 et seq.) of Title 16. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 16 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (a), 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 4321 of Title 42 and Tables.

The Mining and Mineral Policy Act of 1970, referred to in subsec. (a), is Pub. L. 91–631, Dec. 31, 1970, 84 Stat. 1876, which is classified to section 21a of Title 30, Mineral Lands and Mining.

This Act, referred to in subsec. (b), is Pub. L. 95–372, Sept. 18, 1978, 92 Stat. 629, as amended. See note above.

The Outer Continental Shelf Lands Act, referred to in subsec. (b), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (b), is Pub. L. 95–91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§ 7101 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 7101 of Title 42 and Tables.

## CHAPTER 37—PUBLIC RANGELANDS IMPROVEMENT

Sec.
1901. Congressional findings and declaration of policy.
1902. Definitions.
1903. Rangelands inventory and management; public availability.
1904. Range improvement funding.
1905. Grazing fees; economic value of use of land; fair market value components; annual percentage change limitation.
1906. Authority for cooperative agreements and payments effective as provided in appropriations.
1907. National Grasslands; exemptions.
1908. Experimental stewardship program.

### § 1901. Congressional findings and declaration of policy

(a) The Congress finds and declares that—

(1) vast segments of the public rangelands are producing less than their potential for livestock, wildlife habitat, recreation, forage, and water and soil conservation benefits, and for that reason are in an unsatisfactory condition;

(2) such rangelands will remain in an unsatisfactory condition and some areas may decline further under present levels of, and funding for, management;

(3) unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification,[1] and a resultant underproductivity for large acreages of the public lands; contribute significantly to unacceptable levels of siltation and salinity in major western watersheds including the Colorado River; negatively impact the quality and availability of scarce western water supplies; threaten important and frequently critical fish and wildlife habitat; prevent expansion of the forage resource and resulting benefits to livestock and wildlife production; increase surface runoff and flood danger; reduce the value of such lands for recreational and esthetic purposes; and may ultimately lead to unpredictable and undesirable long-term local and regional climatic and economic changes;

(4) the above-mentioned conditions can be addressed and corrected by an intensive public rangelands maintenance, management, and improvement program involving significant increases in levels of rangeland management and improvement funding for multiple-use values;

(5) to prevent economic disruption and harm to the western livestock industry, it is in the public interest to charge a fee for livestock grazing permits and leases on the public lands which is based on a formula reflecting annual changes in the costs of production;

(6) the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.), continues to be successful in its goal of protecting wild free-roaming horses and burros from capture, branding, harassment, and death, but that certain amendments are necessary thereto to avoid excessive costs in the administration of the Act, and to facilitate the humane adoption or disposal of excess wild free-roaming horses and burros which because they exceed the carrying capacity of the range, pose a threat to their own habitat, fish, wildlife, recreation, water and soil conservation, domestic livestock grazing, and other rangeland values;

(b) The Congress therefore hereby establishes and reaffirms a national policy and commitment to:

(1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 1711(a) of this title;

(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values in accordance with management objectives and the land use planning process established pursuant to section 1712 of this title;

(3) charge a fee for public grazing use which is equitable and reflects the concerns addressed in paragraph (a)(5) above;

(4) continue the policy of protecting wild free-roaming horses and burros from capture, branding, harassment, or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and to other rangeland values;

(c) The policies of this chapter shall become effective only as specific statutory authority for their implementation is enacted by this chapter or by subsequent legislation, and shall be construed as supplemental to and not in derogation of the purposes for which public rangelands are administered under other provisions of law.

[1] So in original.

(Pub. L. 95–514, § 2, Oct. 25, 1978, 92 Stat. 1803.)

REFERENCES IN TEXT

Act of December 15, 1971, referred to in subsec. (a)(6), is Pub. L. 92–195, Dec. 15, 1971, 85 Stat. 649, as amended, popularly known as the Wild Free-Roaming Horses and Burros Act, which is classified generally to chapter 30 (§ 1331 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 16 and Tables.

This chapter, referred to in subsec. (c), was in the original ''this Act'', meaning Pub. L. 95–514, Oct. 25, 1978, 92 Stat. 1803, which enacted this chapter and amended sections 1739 and 1751 to 1753 of this title and sections 1332 and 1333 of Title 16. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

SHORT TITLE

Section 1 of Pub. L. 95–514 provided: ''That this Act [enacting this chapter and amending sections 1739 and 1751 to 1753 of this title and sections 1332 and 1333 of Title 16, Conservation] may be cited as the 'Public Rangelands Improvement Act of 1978'.''

### § 1902. Definitions

As used in this chapter—

(a) The terms ''rangelands'' or ''public rangelands'' means lands administered by the Secretary of the Interior through the Bureau of Land Management or the Secretary of Agriculture through the Forest Service in the sixteen contiguous Western States on which there is domestic livestock grazing or which the Secretary concerned determines may be suitable for domestic livestock grazing.

(b) The term ''allotment management plan'' is the same as defined in section 1702(k) of this title, except that as used in this chapter such term applies to the sixteen contiguous Western States.

(c) The term ''grazing permit and lease'' means any document authorizing use of public lands or lands in national forests in the sixteen contiguous Western States for the purpose of grazing domestic livestock.

(d) The term ''range condition'' means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions, and amounts of vegetation in a plant community resemble that of the desired community for that site.

(e) The term ''native vegetation'' means those plant species, communities, or vegetative associations which are endemic to a given area and which would normally be identified with a healthy and productive range condition occurring as a result of the natural vegetative process of the area.

(f) The term ''range improvement'' means any activity or program on or relating to rangelands which is designed to improve production of forage; change vegetative composition; control patterns of use; provide water; stabilize soil and water conditions; and provide habitat for livestock and wildlife. The term includes, but is not limited to, structures, treatment projects, and use of mechanical means to accomplish the desired results.

(g) The term ''court ordered environmental impact statement'' means any environmental statements which are required to be prepared by the Secretary of the Interior pursuant to the final judgment or subsequent modification thereof as set forth on June 18, 1975, in the matter of Natural Resources Defense Council against Andrus.

(h) The term ''Secretary'' unless specifically designated otherwise, means the Secretary of the Interior.

(i) The term ''sixteen contiguous Western States'' means the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming.

(Pub. L. 95–514, § 3, Oct. 25, 1978, 92 Stat. 1804.)

REFERENCES IN TEXT

This chapter, referred to in opening provision and in subsec. (b), was in the original ''this Act'', meaning Pub. L. 95–514, Oct. 25, 1978, 92 Stat. 1803, which enacted this chapter and amended sections 1739 and 1751 to 1753 of this title and sections 1332 and 1333 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

### § 1903. Rangelands inventory and management; public availability

(a) Following enactment of this chapter, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act (43 U.S.C. 1711), and by the Secretary of Agriculture in accordance with section 1603 of title 16; shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public.

(b) The Secretary shall manage the public rangelands in accordance with the Taylor Grazing Act (43 U.S.C. 315–315(o)), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1782), and other applicable law consistent with the public rangelands improvement program pursuant to this chapter. Except where the land use planning process required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) determines otherwise or the Secretary determines, and sets forth his reasons for this determination, that grazing uses should be discontinued (either temporarily or permanently) on certain lands, the goal of such management shall be to improve the range conditions of the public rangelands so that they become as productive as feasible in accordance with the rangeland management objectives es-

tablished through the land use planning process, and consistent with the values and objectives listed in sections 1901(a) and (b)(2) of this title.

(Pub. L. 95–514, § 4, Oct. 25, 1978, 92 Stat. 1805.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in subsec. (b), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Taylor Grazing Act, referred to in subsec. (b), is act June 28, 1934, ch. 865, 48 Stat. 1269, as amended, which is classified principally to subchapter I (§ 315 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 315 of this title and Tables.

### § 1904. Range improvement funding

#### (a) Authorization of additional appropriations

In order to accomplish the purposes of this chapter, there are hereby authorized to be appropriated the sum of an additional $15,000,000 annually in fiscal years 1980 through 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for 1982; and for fiscal years 1987 through 1999 an amount not less than $5,000,000 annually more than the amount authorized for fiscal year 1986. Such funds shall be in addition to any range, wildlife, and soil and water management moneys which have been requested by the Secretary under the provisions of section 1748 of this title, and in addition to the moneys which are available for range improvements under section 1751 of this title.

#### (b) Availability of unappropriated funds for subsequent fiscal years

Any amounts authorized by this section not appropriated in one or more fiscal years shall be available for appropriation in any subsequent years.

#### (c) Fund limitations for prescribed uses; distribution, consultation and coordination; public hearings and meetings; interested parties; priority of cooperative agreements with range users

No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 1712 of this title and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after careful and considered consultation and coordination, including public hearings and meetings where appropriate, with the district grazing advisory boards established pursuant to section 1753 of this title, and the advisory councils established pursuant to section 1739 of this title, range user representatives, and other interested parties. To the maximum extent practicable, and where economically sound, the Secretary shall give priority to entering into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

#### (d) Environmental assessment record and environmental impact statement requirements

Prior to the use of any funds authorized by this section the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act [42 U.S.C. 4321 et seq.] prior to the expenditure of funds.

(Pub. L. 95–514, § 5, Oct. 25, 1978, 92 Stat. 1805.)

REFERENCES IN TEXT

National Environmental Policy Act, 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.

### § 1905. Grazing fees; economic value of use of land; fair market value components; annual percentage change limitation

For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds fair market value for public grazing equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Economic Research Service) added to the Combined Index (Beef Cattle Price Index minus the Price Paid Index) and divided by 100: *Provided*, That the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 per centum of the previous year's fee.

(Pub. L. 95–514, § 6(a), Oct. 25, 1978, 92 Stat. 1806.)

EX. ORD. NO. 12548. GRAZING FEES

Ex. Ord. No. 12548, Feb. 14, 1986, 51 F.R. 5985, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to provide for establishment of appropriate fees for the grazing of domestic livestock on public rangelands, it is ordered as follows:

SECTION 1. *Determination of Fees*. The Secretaries of Agriculture and the Interior are directed to exercise their authority, to the extent permitted by law under the various statutes they administer, to establish fees for domestic livestock grazing on the public rangelands which annually equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Statistical Reporting Service) added to the Combined Index (Beef Cattle Price Index minus the Prices Paid Index) and divided by 100; *provided*, that the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee,

and *provided further*, that the fee shall not be less than $1.35 per animal unit month.

SEC. 2. *Definitions*. As used in this Order, the term:

(a) ''Public rangelands'' has the same meaning as in the Public Rangelands Improvement Act of 1978 (Public Law 95–514) [this chapter];

(b) ''Forage Value Index'' means the weighted average estimate of the annual rental charge per head per month for pasturing cattle on private rangelands in the 11 Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California) (computed by the Statistical Reporting Service from the June Enumerative Survey) divided by $3.65 and multiplied by 100;

(c) ''Beef Cattle Price Index'' means the weighted average annual selling price for beef cattle (excluding calves) in the 11 Western States (Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, and California) for November through October (computed by the Statistical Reporting Service) divided by $22.04 per hundred weight and multiplied by 100; and

(d) ''Prices Paid Index'' means the following selected components from the Statistical Reporting Service's Annual National Index of Prices Paid by Farmers for Goods and Services adjusted by the weights indicated in parentheses to reflect livestock production costs in the Western States: 1. Fuels and Energy (14.5); 2. Farm and Motor Supplies (12.0); 3. Autos and Trucks (4.5); 4. Tractors and Self-Propelled Machinery (4.5); 5. Other Machinery (12.0); 6. Building and Fencing Materials (14.5); 7. Interest (6.0); 8. Farm Wage Rates (14.0); 9. Farm Services (18.0).

SEC. 3. Any and all existing rules, practices, policies, and regulations relating to the administration of the formula for grazing fees in section 6(a) of the Public Rangelands Improvement Act of 1978 [43 U.S.C. 1905] shall continue in full force and effect.

SEC. 4. This Order shall be effective immediately.

RONALD REAGAN.

### § 1906. Authority for cooperative agreements and payments effective as provided in appropriations

Notwithstanding any other provision of this chapter, authority to enter into cooperative agreements and to make payments under this chapter shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95–514, § 9, Oct. 25, 1978, 92 Stat. 1807.)

### § 1907. National Grasslands; exemptions

All National Grasslands are exempted from the provisions of this chapter.

(Pub. L. 95–514, § 11, Oct. 25, 1978, 92 Stat. 1808.)

### § 1908. Experimental stewardship program

#### (a) Scope of program

The Secretaries of Interior and Agriculture are hereby authorized and directed to develop and implement, on an experimental basis on selected areas of the public rangelands which are representative of the broad spectrum of range conditions, trends, and forage values, a program which provides incentives to, or rewards for, the holders of grazing permits and leases whose stewardship results in an improvement of the range condition of lands under permit or lease. Such program shall explore innovative grazing management policies and systems which might provide incentives to improve range conditions. These may include, but need not be limited to—

(1) cooperative range management projects designed to foster a greater degree of cooperation and coordination between the Federal and State agencies charged with the management of the rangelands and with local private range users,

(2) the payment of up to 50 per centum of the amount due the Federal Government from grazing permittees in the form of range improvement work,

(3) such other incentives as he may deem appropriate.

#### (b) Report to Congress

No later than December 31, 1985, the Secretaries shall report to the Congress the results of such experimental program, their evaluation of the fee established in section 1905 of this title and other grazing fee options, and their recommendations to implement a grazing fee schedule for the 1986 and subsequent grazing years.

(Pub. L. 95–514, § 12, Oct. 25, 1978, 92 Stat. 1808.)

## CHAPTER 38—CRUDE OIL TRANSPORTATION SYSTEMS

Sec.
2001. Findings.
2002. Statement of purposes.
2003. Definitions.
2004. Applications for approval of proposed crude oil transportation systems.
2005. Review schedule.
2006. Environmental impact statements.
2007. Decision of President.
2008. Procedures for waiver of Federal law.
2009. Expedited procedures for issuance of permits: enforcement of rights-of-way.
2010. Negotiations with Government of Canada.
2011. Judicial review.
2012. Authorization for appropriation.

### § 2001. Findings

The Congress finds and declares that—

(1) a serious crude oil supply shortage may soon exist in portions of the United States;

(2) a large surplus of crude oil on the west coast of the United States is projected;

(3) any substantial curtailment of Canadian crude oil exports to the United States could create a severe crude oil shortage in the northern tier States;

(4) pending the authorization and completion of west-to-east crude oil delivery systems, Alaskan crude oil in excess of west coast needs will be transshipped through the Panama Canal at a high transportation cost;

(5) national security and regional supply requirements may be such that west-to-east crude delivery systems serving both the northern tier States and inland States, consistent with the requirements of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, are needed;

(6) expeditious Federal and State decisions for west-to-east crude oil delivery systems are of the utmost priority; and

(7) resolution of the west coast crude oil surplus and the need for crude oil in northern tier States and inland States require the assignment and coordination of overall responsibility within the executive branch to permit ex-

pedited action on all necessary environmental assessments and decisions on permit applications concerning delivery systems.

(Pub. L. 95–617, title V, § 501, Nov. 9, 1978, 92 Stat. 3157.)

REFERENCES IN TEXT

Section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, referred to in par. (5), is section 410 of Pub. L. 93–153, Nov. 16, 1973, 87 Stat. 594, which is set out as a note under section 1651 of this title.

DEFINITIONS

The definition of ''State'' in section 2602 of Title 16, Conservation, applies to this section.

### § 2002. Statement of purposes

The purposes of this chapter are—

(1) to provide a means for—

(A) selecting delivery systems to transport Alaskan and other crude oil to northern tier States and inland States, and

(B) resolving both the west coast crude oil surplus and the crude oil supply problems in the northern tier States;

(2) to provide an expedited procedure for acting on applications for all Federal permits, licenses, and approvals required for the construction and operation or any transportation system approved under this chapter and the Long Beach-Midland project; and

(3) to assure that Federal decisions with respect to crude oil transportation systems are coordinated with State decisions to the maximum extent practicable.

(Pub. L. 95–617, title V, § 502, Nov. 9, 1978, 92 Stat. 3157.)

DEFINITIONS

The definition of ''State'' in section 2602 of Title 16, Conservation, applies to this section.

### § 2003. Definitions

As used in this chapter—

(1) The term ''northern tier States'' means the States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio.

(2) The term ''inland States'' means those States in the United States other than northern tier States and the States of California, Alaska, and Hawaii.

(3) The term ''crude oil transportation system'' means a crude oil delivery system (including the location of such system) for transporting Alaskan and other crude oil to northern tier States and inland States, but such term does not include the Long Beach-Midland project.

(4) The term ''Long Beach-Midland project'' means the crude oil delivery system which was the subject of, and is generally described in, the ''Final Environmental Impact Statement, Crude Oil Transportation System: Valdez, Alaska, to Midland, Texas (as proposed by Sohio Transportation Company)'', the availability of which was announced by the Department of the Interior in the Federal Register on June 1, 1977 (42 Fed. Reg. 28008).

(5) The term ''Federal agency'' means an Executive agency, as defined in section 105 of title 5.

(Pub. L. 95–617, title V, § 503, Nov. 9, 1978, 92 Stat. 3158.)

DEFINITIONS

The definition of ''State'' in section 2602 of Title 16, Conservation, applies to this section.

### § 2004. Applications for approval of proposed crude oil transportation systems

The following applications for construction and operation of a crude oil transportation system submitted to the Secretary of the Interior by an applicant are eligible for consideration under this chapter:

(1) Applications received by the Secretary before the 30th day after November 9, 1978.

(2) Applications received by the Secretary during the 60-day period beginning on the 30th day after November 9, 1978, if the Secretary determines that consideration and review of the proposal contained in such application is in the national interest and that such consideration and review could be completed within the time limits established under this chapter.

An application under this section may be accepted by the Secretary only if it contains a general description of the route of the proposed system and identification of the applicant and any other person who, at the time of filing, has a financial or other interest in the system or is a party to an agreement under which such person would acquire a financial or other interest in the system.

(Pub. L. 95–617, title V, § 504, Nov. 9, 1978, 92 Stat. 3158.)

### § 2005. Review schedule

#### (a) Establishment

The Secretary of the Interior, after consultation with the heads of appropriate Federal agencies, shall establish an expedited schedule for conducting reviews and making recommendations concerning crude oil transportation systems proposed in applications filed under section 2004 of this title and for obtaining information necessary for environmental impact statements required under section 4332 of title 42 with respect to such proposed systems.

#### (b) Additional information

(1) On his own initiative or at the request of the head of any Federal agency covered by the review schedule established under subsection (a) of this section, the Secretary of the Interior shall require that an applicant provide such additional information as may be necessary to conduct the review of the applicant's proposal. Such information may include—

(A) specific details of the route (and alternative routes) and identification of Federal lands affected by any such route;

(B) information necessary for environmental impact statements; and

(C) information necessary for the President's determination under section 2007(a) of this title.

(2) If, within a reasonable time, an applicant does not—

(A) provide information required under this subsection, or

(B) comply with any requirement of section 1734 of this title,

the Secretary of the Interior may declare the application ineligible for consideration under this chapter. After making such a declaration, the Secretary of the Interior shall notify the applicant and the President of such ineligibility.

**(c) Recommendations of heads of Federal agencies**

(1) Pursuant to the schedule established under subsection (a) of this section, heads of Federal agencies covered by such schedule shall conduct a review of a proposed crude oil transportation system eligible for consideration under this chapter and shall submit their recommendations concerning such systems (and the basis for such recommendations) to the Secretary of the Interior for submission to the President. After receipt of such recommendations and before their submission to the President, the Secretary of the Interior shall provide an opportunity for comments in accordance with paragraph (2). The Secretary of the Interior shall forward such comments to the President with the recommendations—

(A) in the case of applications filed under section 2004(1) of this title, on or before December 1, 1978, and

(B) in the case of applications filed under section 2004(2) of this title, on or before the 60th day after December 1, 1978.

(2)(A) After receipt of recommendations under paragraph (1) the Secretary of the Interior shall provide appropriate means by which the Governor and any other official of any State and any official of any political subdivision of a State, may submit written comments concerning proposed crude oil transportation systems eligible for consideration under this chapter.

(B) After receipt of recommendations referred to in subparagraph (A), the Secretary of the Interior shall make such comments and recommendations available to the public and provide an opportunity for submission of written comments.

**(d) Review by Federal Trade Commission; effect on the antitrust laws**

(1) Promptly after he receives an application for a proposed crude oil transportation system eligible for consideration under this chapter, the Secretary of the Interior shall submit to the Federal Trade Commission a copy of such application and such other information as the Commission may reasonably require. The Commission may prepare and submit to the President a report on the impact of implementation of such application upon competition and restraint of trade and on whether such implementation would be inconsistent with the antitrust laws. Such report shall be made available to the public. Nothing in this subsection shall be construed to prevent the President from making his decision under section 2007(a) of this title in the absence of such report.

(2) Nothing in this chapter shall bar the Attorney General or any other appropriate officer or agent of the United States from challenging any anticompetitive act or practice related to the ownership, construction, or operation of any crude oil transportation system approved under this chapter. The approval of any such system under this chapter shall not be deemed to convey to any person immunity from civil or criminal liability or to create defenses to actions under the antitrust laws and shall not modify or abridge any private right of action under such laws.

**(e) Filing and review of permits, rights-of-way applications, etc., not affected**

Nothing in this chapter shall be construed to prevent the acceptance and review by any Federal agency of any application for any Federal permit, right-of-way, or other authorizations under other provisions of law for a crude oil transportation system eligible for consideration under this chapter; except that any determination with respect to such an application may be made only in accordance with the provisions of section 2009(a) of this title.

(Pub. L. 95–617, title V, § 505, Nov. 9, 1978, 92 Stat. 3158.)

DEFINITIONS

The definitions of ''State'' and ''antitrust laws'' in section 2602 of Title 16, Conservation, apply to this section.

**§ 2006. Environmental impact statements**

**(a) Preparation of environmental impact statements**

Any Federal agency required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) to issue an environmental impact statement concerning a proposed crude oil transportation system eligible for consideration under this chapter shall, in preparing such statement, utilize, to the maximum extent practicable and consistent with such Act [42 U.S.C. 4321 et seq.], appropriate data, analyses, conclusions, findings, and decisions regarding environmental impacts developed or made by any other Federal or State agency.

**(b) Filing of environmental impact statements**

On or before December 1, 1978, all environmental impact statements concerning proposed crude oil transportation systems eligible for consideration under this chapter and required under section 102 of the National Environmental Policy Act of 1969 [42 U.S.C. 4332] shall be completed, made available for public review and comment, revised to the extent appropriate in light of such comment, and submitted to the President and the Council on Environmental Quality; except that in the case of any environmental impact statement concerning any crude oil transportation system which is eligible for consideration and which was filed under section 2004(2) of this title, such actions may be taken not later than 60 days after December 1, 1978.

**(c) Report of Council on Environmental Quality**

Promptly after receiving an environmental impact statement referred to in subsection (b) of this section for a crude oil transportation system, the Council on Environmental Quality

shall submit to the President a report on the Council's opinion concerning such statement and concerning other matters related to the environmental impact of such system.

(Pub. L. 95–617, title V, § 506, Nov. 9, 1978, 92 Stat. 3160.)

REFERENCES IN TEXT

Such Act, referred to in subsec. (a), means the National Environmental Policy Act of 1969, 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.

DEFINITIONS

The definition of ''State agency'' in section 2602 of Title 16, Conservation, applies to this section.

## § 2007. Decision of President

### (a) Decision concerning approval or disapproval of proposed systems

(1) After reviewing all the information submitted to him concerning the various proposed crude oil transportation systems eligible for consideration under this chapter (including environmental impact statements, comments, reports, recommendations, and other information submitted to him at any time before he makes his decision) and after consulting the Secretaries of Energy, the Interior, and Transportation, the President shall decide which, if any, of such systems shall be approved for the purposes of section 2008 of this title (relating to procedures for waiver of law), section 2009 of this title (relating to expedited procedures for issuance of permits), section 2010 of this title (relating to negotiations with the Government of Canada), and section 2011 of this title (relating to judicial review). A decision approving a crude oil transportation system may include such modifications and alterations in such system as the President finds appropriate. The President shall issue his decision within 45 days after receiving recommendations and comments submitted to him under section 2005(c) of this title, except that the President, for such period as he deems necessary, but not to exceed 60 days, may delay his decision and its issuance if he determines that additional time is otherwise necessary to enable him to make a decision. If the President so delays his decision, he shall promptly notify the House of Representatives and the Senate of such delay and shall submit a full explanation of the basis for such delay.

(2) Any decision made under this subsection approving a system proposed under this chapter shall include a determination that construction and operation of such system is in the national interest and shall be based upon the criteria specified in subsection (b) of this section.

### (b) Criteria

(1) The criteria for making a decision under this subsection shall include findings of—

(A) environmental impacts of the proposed systems and the capability of such systems to minimize environmental risks resulting from transportation of crude oil;

(B) the amount of crude oil available to northern tier States and inland States and the projected demand in those States under each of such systems;

(C) transportation costs and delivered prices of crude oil by region under each of such systems;

(D) construction schedules for each of such systems and possibilities for delay in such schedules;

(E) feasibility of financing for each of such systems;

(F) capital and operating costs of each of such systems, including an analysis of the reliability of cost estimates and the risk of cost overruns;

(G) net national economic costs and benefits of each such system;

(H) the extent to which each system complies with the provisions of section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act;

(I) the effect of each such system on international relations, including the status and time schedule for any necessary Canadian approvals and plans;

(J) impact upon competition by each system;

(K) degree of safety and efficiency of design and operation of each system;

(L) potential for interruption of deliveries of crude oil from the west coast under each such system;

(M) capacity and cost of expanding such system to transport additional volumes of crude oil in excess of initial system capacity;

(N) national security considerations under each such system;

(O) relationship of each such system to national energy policy; and

(P) such other factors as the President deems appropriate.

(2) The period of time for which such findings shall be made shall be the useful life of the crude oil transportation system involved.

### (c) Publication of findings and decision

The President shall make available to the public at the time of issuance of a decision under this section a written statement setting forth findings with respect to each of the criteria specified in subsection (b) of this section and describing the nature and route of crude oil transportation systems, if any, which are approved in the decision. If the President's decision is to approve a system, each statement shall set forth his reasons for approving such system over other proposed systems (if any) eligible for consideration under this chapter. Such statement along with notification of such decision shall be published in the Federal Register.

(Pub. L. 95–617, title V, § 507, Nov. 9, 1978, 92 Stat. 3160.)

REFERENCES IN TEXT

Section 410 of the Act approved November 16, 1973 (87 Stat. 594), commonly known as the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (b)(1)(H), is section 410 of Pub. L. 93–153, Nov. 16, 1973, 87 Stat. 594, which is set out as a note under section 1651 of this title.

### § 2008. Procedures for waiver of Federal law

#### (a) Waiver of provisions of Federal law

The President may identify those provisions of Federal law (including any law or laws regarding the location of a crude oil transportation system but not including any provision of the antitrust laws) which, in the national interest, as determined by the President, should be waived in whole or in part to facilitate construction or operation of any such system approved under section 2007 of this title or of the Long Beach-Midland project, and he shall submit any such proposed waiver to both Houses of the Congress. The provisions so identified shall be waived with respect to actions to be taken to construct or operate such system or project only upon enactment of a joint resolution within the first period of 60 calendar days of continuous session of Congress beginning on the date of receipt by the House of Representatives and the Senate of such proposal.

#### (b) Joint resolution

The resolving clause of the joint resolution referred to in subsection (a) of this section is as follows: ''That the House of Representatives and Senate approve the waiver of the provisions of law ( ) as proposed by the President, submitted to the Congress on , 19 .''. The first blank space therein being filled with the citation to the provisions of law proposed to be waived by the President and the second blank space therein being filled with the date on which the President submits his decision to wave[1] such provisions of law to the House of Representatives and the Senate. Rules and procedures for consideration of any such joint resolution shall be governed by section 719f(c) and (d) of title 15, other than paragraph (2) of section 719f(d) of title 15, except that for the purposes of this subsection, the phrase ''a waiver of provisions of law'' shall be substituted in section 719f(d) of title 15 each place where the phrase ''an Alaska natural gas transportation system'' appears.

(Pub. L. 95–617, title V, § 508, Nov. 9, 1978, 92 Stat. 3162.)

DEFINITIONS

The definition of ''antitrust laws'' in section 2602 of Title 16, Conservation, applies to this section.

### § 2009. Expedited procedures for issuance of permits: enforcement of rights-of-way

#### (a) Expedited procedures for approved systems

After issuance of a decision by the President approving any crude oil transportation system, all Federal officers and agencies shall expedite, to the maximum extent practicable, consistent with applicable provisions of law, all actions necessary to determine whether to issue, administer, or enforce rights-of-way across Federal lands and to issue Federal permits in connection with, or otherwise to authorize, construction and operation of such system. Any such action shall be consistent with applicable provisions of law. After taking any such action, such officer or agency shall publish notification of the taking of such action in the Federal Register.

#### (b) Expedited procedures for Long Beach-Midland project

All decisions regarding issuance of Federal permits, rights-of-way, and leases and other Federal authorizations necessary for construction and operation of the Long Beach-Midland project shall be consistent with applicable provisions of Federal law, except that such decisions shall be made within 30 days after the date this chapter becomes effective. The President may extend the date by which such decisions, under the preceding sentence, are to be made to a date not later than 90 days after the effective date of this chapter. Notification of the making of such decisions shall be published in the Federal Register. Nothing in this section affects any decision made before November 9, 1978.

#### (c) Law governing rights-of-way

Rights-of-way over any Federal land with respect to an approved crude oil transportation system or the Long Beach-Midland project shall be governed by the provisions of section 185 of title 30, other than subsection (w)(2) of such section.

(Pub. L. 95–617, title V, § 509, Nov. 9, 1978, 92 Stat. 3162.)

### § 2010. Negotiations with Government of Canada

With respect to any crude oil transportation system approved under section 2007(a) of this title all or any part of which is to be located in Canada, the President of the United States is authorized and requested to enter into negotiations with the Government of Canada to determine what measures can be taken to expedite the granting of approvals by the Government of Canada for construction or operation of such system, and he is authorized and requested to explore the possibility of further exchanges of crude oil supplies between the United States and Canada.

(Pub. L. 95–617, title V, § 510, Nov. 9, 1978, 92 Stat. 3163.)

### § 2011. Judicial review

#### (a) Notice

The President or any other Federal officer shall cause notice to be published in the Federal Register and in newspapers of general circulation in the areas affected whenever he makes any decision described in subsection (b) of this section.

#### (b) Review of certain Federal actions

Any action seeking judicial review of an action or decision of the President or any other Federal officer taken or made after November 9, 1978, concerning the approval or disapproval of a crude oil transportation system or the issuance of necessary rights-of-way, permits, leases, and other authorizations for the construction, operation, and maintenance of the Long Beach-Midland project or a crude oil transportation system approved under section 2007(a) of this title may only be brought within 60 days after the date on which notification of the action or deci-

[1] So in original. Probably should be ''waive''.

sion of such officer is published in the Federal Register, or in newspapers of general circulation in the areas affected, whichever is later.

**(c) Jurisdiction of courts**

An action under subsection (b) of this section shall be barred unless a petition is filed within the time specified. Any such petition shall be filed in the appropriate United States district court. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. Notwithstanding the amount in controversy, such court shall have jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided and to provide appropriate relief. No State or local court shall have jurisdiction of any such claim whether in a proceeding instituted before, on, or after the date this chapter becomes effective. No court shall have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization in connection with a crude oil transportation system approved under section 2007(a) of this title or the Long Beach-Midland project, except as part of a final judgment entered in a case involving a claim filed pursuant to this section.

(Pub. L. 95–617, title V, § 511, Nov. 9, 1978, 92 Stat. 3163; Pub. L. 98–620, title IV, § 402(45), Nov. 8, 1984, 98 Stat. 3360.)

AMENDMENTS

1984—Subsec. (c). Pub. L. 98–620 struck out provision that any such proceeding had to be assigned for hearing at the earliest possible date and had to be expedited by the court.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98–620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

DEFINITIONS

The definition of ''State'' in section 2602 of Title 16, Conservation, applies to this section.

### § 2012. Authorization for appropriation

There are authorized to be appropriated to the Secretary of the Interior to carry out his responsibilities under this chapter not to exceed $500,000 for the fiscal year ending on September 30, 1978, and not to exceed $1,000,000 for the fiscal year ending on September 30, 1979.

(Pub. L. 95–617, title V, § 512, Nov. 9, 1978, 92 Stat. 3164.)

## CHAPTER 39—ABANDONED SHIPWRECKS

Sec.
2101. Findings.
2102. Definitions.
2103. Rights of access.
2104. Preparation of guidelines.
2105. Rights of ownership.
2106. Relationship to other laws.

### § 2101. Findings

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

(Pub. L. 100–298, § 2, Apr. 28, 1988, 102 Stat. 432.)

SHORT TITLE

Section 1 of Pub. L. 100–298 provided that: ''This Act [enacting this chapter] may be cited as the 'Abandoned Shipwreck Act of 1987'.''

### § 2102. Definitions

For purposes of this chapter—

(a) the term ''embedded'' means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term ''National Register'' means the National Register of Historic Places maintained by the Secretary of the Interior under section 470a of title 16;

(c) the terms ''public lands'', ''Indian lands'', and ''Indian tribe'' have the same meaning given the terms in the Archaeological Resource[1] Protection Act of 1979 (16 U.S.C. 470aa–470*ll*);

(d) the term ''shipwreck'' means a vessel or wreck, its cargo, and other contents;

(e) the term ''State'' means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term ''submerged lands'' means the lands—

(1) that are ''lands beneath navigable waters,'' as defined in section 1301 of this title;

(2) of Puerto Rico, as described in section 749 of title 48;

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1705 of title 48; and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94–241.[2]

(Pub. L. 100–298, § 3, Apr. 28, 1988, 102 Stat. 432.)

REFERENCES IN TEXT

The Archaeological Resource Protection Act of 1979, referred to in subsec. (c), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, as amended, which is classified generally to chapter 1B (§ 470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

Section 801 of Public Law 94–241, referred to in subsec. (f)(4), probably means section 801 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as contained in section 1 of Pub. L. 94–241, Mar. 24, 1976, 90 Stat. 263, which is set out as a note under section 1801 of Title 48, Territories and Insular Possessions.

### § 2103. Rights of access

**(a) Access rights**

In order to—

[1] So in original. Probably should be ''Resources''.

[2] See References in Text note below.

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 2105 of this title,

it is the declared policy of the Congress that States carry out their responsibilities under this chapter to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

**(b) Parks and protected areas**

In managing the resources subject to the provisions of this chapter, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

(Pub. L. 100–298, § 4, Apr. 28, 1988, 102 Stat. 433.)

REFERENCES IN TEXT

The National Historic Preservation Act, referred to in subsec. (b), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended. Title I of the Act is classified generally to sections 470a, 470b, and 470c to 470h–3 of Title 16, Conservation. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

## § 2104. Preparation of guidelines

**(a) Purposes of guidelines; publication in Federal Register**

In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after April 28, 1988, prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

**(b) Consultation**

Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

**(c) Use of guidelines in developing legislation and regulations**

Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this chapter.

(Pub. L. 100–298, § 5, Apr. 28, 1988, 102 Stat. 433.)

## § 2105. Rights of ownership

**(a) United States title**

The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

**(b) Notice of shipwreck location; eligibility determination for inclusion in National Register of Historic Places**

The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3) of this section.

**(c) Transfer of title to States**

The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

**(d) Exception**

Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

**(e) Reservation of rights**

This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 1311, 1313, or 1314 of this title; or

(2) section 414 or 415 of title 33.

(Pub. L. 100–298, § 6, Apr. 28, 1988, 102 Stat. 433.)

## § 2106. Relationship to other laws

**(a) Law of salvage and law of finds**

The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 2105 of this title applies.

**(b) Laws of United States**

This chapter shall not change the laws of the United States relating to shipwrecks, other than those to which this chapter applies.

**(c) Effective date**

This chapter shall not affect any legal proceeding brought prior to April 28, 1988.

(Pub. L. 100–298, § 7, Apr. 28, 1988, 102 Stat. 434.)

## 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.
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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

Section 1 of Pub. L. 102–250 provided that: ''This Act [enacting this chapter] may be cited as the 'Reclamation States Emergency Drought Relief Act of 1991'.''

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, provided that: ''Not later than 14 days after the date of enactment of this Act [Aug. 2, 2002], the Secretary of Agriculture shall carry out the transfer of funds under section 2507(a) of the Food Security and Rural Investment Act of 2002 (Public Law 107–171) [set out below].''

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, provided that:

''(a) TRANSFER.—Subject to subsection (b) and paragraph (1) of section 207(a) of Public Law 108–7 (117 Stat. 146), notwithstanding paragraph (3) of that section, on the date of enactment of the Food, Conservation, and Energy Act of 2008 [June 18, 2008], the Secretary of Agriculture shall transfer $175,000,000 of the funds of the Commodity Credit Corporation to the Bureau of Reclamation Water and Related Resources Account, which funds shall—

''(1) be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and

''(2) remain available until expended.

''(b) PERMITTED USES.—For the benefit of at-risk natural desert terminal lakes and associated riparian and watershed resources, in any case in which there are willing sellers or willing participants, the funds described in subsection (a) may be used—

''(1) to lease water;

''(2) to purchase land, water appurtenant to the land, and related interests; and

''(3) for efforts consistent with researching, supporting, and conserving fish, wildlife, plant, and habitat resources.''

## § 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) of this section.

**(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) of this section 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) of this section.

**(c) Termination of authority**

The authorities established under this subchapter shall terminate on September 30, 2012.

(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.)

AMENDMENTS

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 of this chapter.

**(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 of this chapter.

(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, as amended, which is classified generally to sections 661 to 666c of Title 16, Conservation. For complete classification of this Act to the Code, see 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) of this section 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 $90,000,000 in total for the period of fiscal years 2006 through 2012.

(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.)

AMENDMENTS

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 non-project 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.)

## CHAPTER 41—FEDERAL LAND TRANSACTION FACILITATION

Sec.
2301. Findings.
2302. Definitions.
2303. Identification of inholdings.
2304. Disposal of public land.
2305. Federal Land Disposal Account.
2306. Special provisions.

### § 2301. Findings

Congress finds that—

(1) the Bureau of Land Management has authority under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) to sell land identified for disposal under its land use planning;

(2) the Bureau of Land Management has authority under that Act to exchange Federal land for non-Federal land if the exchange would be in the public interest;

(3) through land use planning under that Act, the Bureau of Land Management has identified certain tracts of public land for disposal;

(4) the Federal land management agencies of the Departments of the Interior and Agriculture have authority under existing law to acquire land consistent with the mission of each agency;

(5) the sale or exchange of land identified for disposal and the acquisition of certain non-Federal land from willing landowners would—

(A) allow for the reconfiguration of land ownership patterns to better facilitate resource management;

(B) contribute to administrative efficiency within Federal land management units; and

(C) allow for increased effectiveness of the allocation of fiscal and human resources within the Federal land management agencies;

(6) a more expeditious process for disposal and acquisition of land, established to facilitate a more effective configuration of land ownership patterns, would benefit the public interest;

(7) many private individuals own land within the boundaries of Federal land management units and desire to sell the land to the Federal Government;

(8) such land lies within national parks, national monuments, national wildlife refuges, national forests, and other areas designated for special management;

(9) Federal land management agencies are facing increased workloads from rapidly growing public demand for the use of public land, making it difficult for Federal managers to address problems created by the existence of inholdings in many areas;

(10) in many cases, inholders and the Federal Government would mutually benefit from Federal acquisition of the land on a priority basis;

(11) proceeds generated from the disposal of public land may be properly dedicated to the acquisition of inholdings and other land that will improve the resource management ability of the Federal land management agencies and adjoining landowners;

(12) using proceeds generated from the disposal of public land to purchase inholdings and other such land from willing sellers would enhance the ability of the Federal land management agencies to—

(A) work cooperatively with private landowners and State and local governments; and

(B) promote consolidation of the ownership of public and private land in a manner that would allow for better overall resource management;

(13) in certain locations, the sale of public land that has been identified for disposal is

the best way for the public to receive fair market value for the land; and

(14) to allow for the least disruption of existing land and resource management programs, the Bureau of Land Management may use non-Federal entities to prepare appraisal documents for agency review and approval consistent with applicable provisions of the Uniform Standards for Federal Land Acquisition.

(Pub. L. 106–248, title II, § 202, July 25, 2000, 114 Stat. 613.)

REFERENCES IN TEXT

The Federal Land Policy and Management Act of 1976, referred to in pars. (1) to (3), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

SHORT TITLE

Pub. L. 106–248, title II, § 201, July 25, 2000, 114 Stat. 613, provided that: ''This title [enacting this chapter] may be cited as the 'Federal Land Transaction Facilitation Act'.''

### § 2302. Definitions

In this chapter:

**(1) Exceptional resource**

The term ''exceptional resource'' means a resource of scientific, natural, historic, cultural, or recreational value that has been documented by a Federal, State, or local governmental authority, and for which there is a compelling need for conservation and protection under the jurisdiction of a Federal agency in order to maintain the resource for the benefit of the public.

**(2) Federally designated area**

The term ''federally designated area'' means land in Alaska and the eleven contiguous Western States (as defined in section 1702(*o*) of this title) that on July 25, 2000, was within the boundary of—

(A) a national monument, area of critical environmental concern, national conservation area, national riparian conservation area, national recreation area, national scenic area, research natural area, national outstanding natural area, or a national natural landmark managed by the Bureau of Land Management;

(B) a unit of the National Park System;

(C) a unit of the National Wildlife Refuge System;

(D) an area of the National Forest System designated for special management by an Act of Congress; or

(E) an area within which the Secretary or the Secretary of Agriculture is otherwise authorized by law to acquire lands or interests therein that is designated as—

(i) wilderness under the Wilderness Act (16 U.S.C. 1131 et seq.);

(ii) a wilderness study area;

(iii) a component of the Wild and Scenic Rivers System under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.); or

(iv) a component of the National Trails System under the National Trails System Act (16 U.S.C. 1241 et seq.).

**(3) Inholding**

The term ''inholding'' means any right, title, or interest, held by a non-Federal entity, in or to a tract of land that lies within the boundary of a federally designated area.

**(4) Public land**

The term ''public land'' means public lands (as defined in section 1702 of this title).

**(5) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 106–248, title II, § 203, July 25, 2000, 114 Stat. 614.)

REFERENCES IN TEXT

The Wilderness Act, referred to in par. (2)(E)(i), is Pub. L. 88–577, Sept. 3, 1964, 78 Stat. 890, as amended, which is classified generally to chapter 23 (§ 1131 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1131 of Title 16 and Tables.

The Wild and Scenic Rivers Act, referred to in par. (2)(E)(iii), is Pub. L. 90–542, Oct. 2, 1968, 82 Stat. 906, as amended, which is classified generally to chapter 28 (§ 1271 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1271 of Title 16 and Tables.

The National Trails System Act, referred to in par. (2)(E)(iv), is Pub. L. 90–543, Oct. 2, 1968, 82 Stat. 919, as amended, which is classified generally to chapter 27 (§ 1241 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1241 of Title 16 and Tables.

### § 2303. Identification of inholdings

**(a) In general**

The Secretary and the Secretary of Agriculture shall establish a procedure to—

(1) identify, by State, inholdings for which the landowner has indicated a desire to sell the land or interest therein to the United States; and

(2) prioritize the acquisition of inholdings in accordance with section 2305(c)(3) of this title.

**(b) Public notice**

As soon as practicable after July 25, 2000, and periodically thereafter, the Secretary and the Secretary of Agriculture shall provide public notice of the procedures referred to in subsection (a) of this section, including any information necessary for the consideration of an inholding under section 2305 of this title. Such notice shall include publication in the Federal Register and by such other means as the Secretary and the Secretary of Agriculture determine to be appropriate.

**(c) Identification**

An inholding—

(1) shall be considered for identification under this section only if the Secretary or the Secretary of Agriculture receive notification of a desire to sell from the landowner in response to public notice given under subsection (b) of this section; and

(2) shall be deemed to have been established as of the later of—

(A) the earlier of—

(i) the date on which the land was withdrawn from the public domain; or

(ii) the date on which the land was established or designated for special management; or

(B) the date on which the inholding was acquired by the current owner.

**(d) No obligation to convey or acquire**

The identification of an inholding under this section creates no obligation on the part of a landowner to convey the inholding or any obligation on the part of the United States to acquire the inholding.

(Pub. L. 106–248, title II, § 204, July 25, 2000, 114 Stat. 615.)

### § 2304. Disposal of public land

**(a) In general**

The Secretary shall establish a program, using funds made available under section 2305 of this title, to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans (as in effect on July 25, 2000) under section 1712 of this title.

**(b) Sale of public land**

**(1) In general**

The sale of public land so identified shall be conducted in accordance with sections 1713 and 1719 of this title.

**(2) Exceptions to competitive bidding requirements**

The exceptions to competitive bidding requirements under section 1713(f) of this title shall apply to this section in cases in which the Secretary determines it to be necessary.

**(c) Report in Public Land Statistics**

The Secretary shall provide in the annual publication of Public Land Statistics, a report of activities under this section.

**(d) Termination of authority**

The authority provided under this section shall terminate 11 years after July 25, 2000.

(Pub. L. 106–248, title II, § 205, July 25, 2000, 114 Stat. 615; Pub. L. 111–212, title III, § 3007(a), July 29, 2010, 124 Stat. 2339.)

AMENDMENTS

2010—Subsec. (d). Pub. L. 111–212 substituted ''11 years'' for ''10 years''.

### § 2305. Federal Land Disposal Account

**(a) Deposit of proceeds**

Notwithstanding any other law (except a law that specifically provides for a proportion of the proceeds to be distributed to any trust funds of any States), the gross proceeds of the sale or exchange of public land under this chapter[1] shall be deposited in a separate account in the Treasury of the United States to be known as the ''Federal Land Disposal Account''.

**(b) Availability**

Amounts in the Federal Land Disposal Account shall be available to the Secretary and the Secretary of Agriculture, without further Act of appropriation, to carry out this chapter.

**(c) Use of the Federal Land Disposal Account**

**(1) In general**

Funds in the Federal Land Disposal Account shall be expended in accordance with this subsection.

**(2) Fund allocation**

**(A) Purchase of land**

Except as authorized under subparagraph (C), funds shall be used to purchase lands or interests therein that are otherwise authorized by law to be acquired, and that are—

(i) inholdings; and

(ii) adjacent to federally designated areas and contain exceptional resources.

**(B) Inholdings**

Not less than 80 percent of the funds allocated for the purchase of land within each State shall be used to acquire inholdings identified under section 2303 of this title.

**(C) Administrative and other expenses**

An amount not to exceed 20 percent of the funds deposited in the Federal Land Disposal Account may be used by the Secretary for administrative and other expenses necessary to carry out the land disposal program under section 2304 of this title.

**(D) Same State purchases**

Of the amounts not used under subparagraph (C), not less than 80 percent shall be expended within the State in which the funds were generated. Any remaining funds may be expended in any other State.

**(3) Priority**

The Secretary and the Secretary of Agriculture shall develop a procedure for prioritizing the acquisition of inholdings and non-Federal lands with exceptional resources as provided in paragraph (2). Such procedure shall consider—

(A) the date the inholding was established (as provided in section 2303(c) of this title);

(B) the extent to which acquisition of the land or interest therein will facilitate management efficiency; and

(C) such other criteria as the Secretary and the Secretary of Agriculture deem appropriate.

**(4) Basis of sale**

Any land acquired under this section shall be—

(A) from a willing seller;

(B) contingent on the conveyance of title acceptable to the Secretary, or the Secretary of Agriculture in the case of an acquisition of National Forest System land, using title standards of the Attorney General;

(C) at a price not to exceed fair market value consistent with applicable provisions of the Uniform Appraisal Standards for Federal Land Acquisitions; and

(D) managed as part of the unit within which it is contained.

**(d) Contaminated sites and sites difficult and uneconomic to manage**

Funds in the Federal Land Disposal Account shall not be used to purchase land or an interest

[1] See References in Text note below.

in land that, as determined by the Secretary or the Secretary of Agriculture—

(1) contains a hazardous substance or is otherwise contaminated; or

(2) because of the location or other characteristics of the land, would be difficult or uneconomic to manage as Federal land.

**(e) Land and Water Conservation Fund Act**

Funds made available under this section shall be supplemental to any funds appropriated under the Land and Water Conservation Fund Act (16 U.S.C. 460l–4 et seq.).

**(f) Termination**

On termination of activities under section 2304 of this title—

(1) the Federal Land Disposal Account shall be terminated; and

(2) any remaining balance in the account shall become available for appropriation under section 3 of the Land and Water Conservation Fund Act (16 U.S.C. 460l–6).

(Pub. L. 106–248, title II, § 206, July 25, 2000, 114 Stat. 616.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'' and was translated as reading ''this title'', meaning title II of Pub. L. 106–248, which enacted this chapter, to reflect the probable intent of Congress.

The Land and Water Conservation Fund Act, referred to in subsec. (e), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88–578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*–4 et seq.) of subchapter LXIX of chapter 1 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*–4 of Title 16 and Tables.

**§ 2306. Special provisions**

**(a) In general**

Nothing in this chapter provides an exemption from any limitation on the acquisition of land or interest in land under any Federal law in effect on July 25, 2000.

**(b) Other law**

This chapter shall not apply to land eligible for sale under—

(1) Public Law 96–568[1] (commonly known as the ''Santini-Burton Act'') (94 Stat. 3381); or

(2) the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343).

**(c) Exchanges**

Nothing in this chapter precludes, preempts, or limits the authority to exchange land under authorities providing for the exchange of Federal lands, including but not limited to—

(1) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

(2) the Federal Land Exchange Facilitation Act of 1988 (102 Stat. 1086) or the amendments made by that Act.

**(d) No new right or benefit**

Nothing in this chapter[1] creates a right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any other person.

(Pub. L. 106–248, title II, § 207, July 25, 2000, 114 Stat. 617.)

REFERENCES IN TEXT

Public Law 96–568 (commonly known as the ''Santini-Burton Act'') (94 Stat. 3381), referred to in subsec. (b)(1), probably means Pub. L. 96–586, Dec. 23, 1980, 94 Stat. 3381, which repealed sections 467a and 467a–1 of Title 16, Conservation and enacted provisions set out as notes under sections 461 and 467a of Title 16. For complete classification of this Act to the Code, see Tables.

The Southern Nevada Public Land Management Act of 1998, referred to in subsec. (b)(2), is Pub. L. 105–263, Oct. 19, 1998, 112 Stat. 2343, which amended section 460ccc–1 of Title 16, Conservation, and section 6901 of Title 31, Money and Finance, and enacted provisions set out as a note under section 6901 of Title 31. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 6901 of Title 31 and Tables.

The Federal Land Policy and Management Act of 1976, referred to in subsec. (c)(1), is Pub. L. 94–579, Oct. 21, 1976, 90 Stat. 2743, as amended, which is classified principally to chapter 35 (§ 1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Federal Land Exchange Facilitation Act of 1988, referred to in subsec. (c)(2), is Pub. L. 100–409, Aug. 20, 1988, 102 Stat. 1086, as amended, which enacted section 1723 of this title, amended section 1716 of this title and sections 505a, 505b, and 521b of Title 16, Conservation, and enacted provisions set out as notes under sections 751 and 1716 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 1701 of this title and Tables.

This chapter, referred to in subsec. (d), was in the original ''this Act'' and was translated as reading ''this title'', meaning title II of Pub. L. 106–248, which enacted this chapter, to reflect the probable intent of Congress.

## CHAPTER 42—RURAL WATER SUPPLY

SUBCHAPTER I—RECLAMATION RURAL WATER SUPPLY

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[1] See References in Text note below.

SUBCHAPTER I—RECLAMATION RURAL WATER SUPPLY

## § 2401. Definitions

In this subchapter:

**(1) Construction**

The term ''construction'' means the installation of infrastructure and the upgrading of existing facilities in locations in which the infrastructure or facilities are associated with the new infrastructure of a rural water project recommended by the Secretary pursuant to this subchapter.

**(2) Federal reclamation law**

The term ''Federal reclamation law'' means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

**(3) Indian**

The term ''Indian'' means an individual who is a member of an Indian tribe.

**(4) Indian tribe**

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

**(5) Non-Federal project entity**

The term ''non-Federal project entity'' means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

**(6) Operations, maintenance, and replacement costs**

**(A) In general**

The term ''operations, maintenance, and replacement costs'' means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

**(B) Inclusions**

The term ''operations, maintenance, and replacement costs'' includes—

(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

(ii) replacement of worn-out project elements; and

(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

**(C) Exclusion**

The term ''operations, maintenance, and replacement costs'' does not include construction costs.

**(7) Program**

The term ''Program'' means the rural water supply program carried out under section 2402 of this title.

**(8) Reclamation States**

The term ''Reclamation States'' means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

**(9) Rural water supply project**

**(A) In general**

The term ''rural water supply project'' means a project that is designed to serve a community or group of communities, each of which has a population of not more than 50,000 inhabitants, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water.

**(B) Inclusion**

The term ''rural water supply project'' includes—

(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

(ii) a project to improve rural water infrastructure, including—

(I) pumps, pipes, wells, and other diversions;

(II) storage tanks and small impoundments;

(III) water treatment facilities for potable water supplies, including desalination facilities;

(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

(V) appurtenances.

**(C) Exclusion**

The term ''rural water supply project'' does not include—

(i) commercial irrigation; or

(ii) major impoundment structures.

**(10) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

**(11) Tribal organization**

The term ''tribal organization'' means—

(A) the recognized governing body of an Indian tribe; and

(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

(Pub. L. 109–451, title I, § 102, Dec. 22, 2006, 120 Stat. 3346.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388, chapter 1093), referred to in par. (2), is popularly known as the Reclamation Act and 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.

SHORT TITLE

Pub. L. 109–451, § 1(a), Dec. 22, 2006, 120 Stat. 3345, provided that: ''This Act [enacting this chapter] may be cited as the 'Rural Water Supply Act of 2006'.''

Pub. L. 109–451, title I, § 101, Dec. 22, 2006, 120 Stat. 3346, provided that: ''This title [enacting this subchapter] may be cited as the 'Reclamation Rural Water Supply Act of 2006'.''

Pub. L. 109–451, title II, § 201, Dec. 22, 2006, 120 Stat. 3356, provided that: ''This title [enacting subchapter II

of this chapter] may be cited as the 'Twenty-First Century Water Works Act'.''

### § 2402. Rural water supply program

#### (a) In general

The Secretary, in cooperation with non-Federal project entities and consistent with this subchapter, may carry out a rural water supply program in Reclamation States to—

(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;

(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and

(3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 2405 of this title and subsequently authorized by Congress.

#### (b) Non-Federal project entity

Any activity carried out under this subchapter shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this subchapter.

#### (c) Eligibility criteria

Not later than 1 year after December 22, 2006, the Secretary shall, consistent with this subchapter, develop and publish in the Federal Register criteria for—

(1) determining the eligibility of a rural community for assistance under the Program; and

(2) prioritizing requests for assistance under the Program.

#### (d) Factors

The criteria developed under subsection (c) shall take into account such factors as whether—

(1) a rural water supply project—

(A) serves—

(i) rural areas and small communities; or

(ii) Indian tribes; or

(B) promotes and applies a regional or watershed perspective to water resources management;

(2) there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs;

(3) a rural water supply project helps meet applicable requirements established by law; and

(4) a rural water supply project is cost effective.

#### (e) Inclusions

The Secretary may include—

(1) to the extent that connection provides a reliable water supply, a connection to pre-existing infrastructure (including impoundments and conveyance channels) as part of a rural water supply project; and

(2) notwithstanding the limitation on population under section 2401(9)(A) of this title, a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

(Pub. L. 109–451, title I, § 103, Dec. 22, 2006, 120 Stat. 3347.)

### § 2403. Rural water programs assessment

#### (a) In general

In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Director of the Indian Health Service, the Secretary of Housing and Urban Development, and the Secretary of the Army, the Secretary shall develop an assessment of—

(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to December 22, 2006, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

(2) the current plan (including projected financial and workforce requirements) for the completion of the projects identified in paragraph (1) within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

(3) the demand for new rural water supply projects;

(4) rural water programs within other agencies and a description of the extent to which those programs provide support for rural water supply projects and water treatment programs in Reclamation States, including an assessment of the requirements, funding levels, and conditions of eligibility for the programs assessed;

(5) the extent of the demand that the Secretary can meet with the Program;

(6) how the Program will complement authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults; and

(7) improvements that can be made to coordinate and integrate the authorities of the agencies with programs evaluated under paragraph (4), including any recommendations to consolidate some or all of the activities of the agencies with respect to rural water supply.

#### (b) Consultation with States

Before finalizing the assessment developed under subsection (a), the Secretary shall solicit comments from States with identified rural water needs.

#### (c) Report

Not later than 2 years after December 22, 2006, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

(Pub. L. 109–451, title I, § 104, Dec. 22, 2006, 120 Stat. 3348.)

**§ 2404. Appraisal investigations**

**(a) In general**

On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 2402(c) of this title and subject to the availability of appropriations, the Secretary may—

(1) receive and review an appraisal investigation that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity;

(2) conduct an appraisal investigation; or

(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 2402(c) of this title; and

(B) using the non-Federal project entity to conduct the appraisal investigation is a cost-effective alternative for completing the appraisal investigation.

**(b) Deadline**

An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

**(c) Appraisal report**

In accordance with subsection (f), after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

(1) considers—

(A) whether the project meets—

(i) the appraisal criteria developed under subsection (d); and

(ii) the eligibility criteria developed under section 2402(c) of this title;

(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

(C) whether the project has a positive effect on public health and safety;

(D) whether the project will meet water demand, including projected future needs;

(E) the extent to which the project provides environmental benefits, including source water protection;

(F) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

(G) whether the project—

(i)(I) implements an integrated resources management approach; or

(II) enhances water management flexibility, including providing for—

(aa) local control to manage water supplies under varying water supply conditions; and

(bb) participation in water banking and markets for domestic and environmental purposes; and

(ii) promotes long-term protection of water supplies;

(H) preliminary cost estimates for the project; and

(I) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

(2) provides recommendations on whether a feasibility study should be initiated under section 2405(a) of this title.

**(d) Appraisal criteria**

**(1) In general**

Not later than 1 year after December 22, 2006, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

**(2) Inclusions**

To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

**(e) Review of appraisal investigation**

**(1) In general**

Not later than 90 days after the date of submission of an appraisal investigation under paragraph (1) or (3) of subsection (a), the Secretary shall provide to the non-Federal entity that conducted the investigation a determination of whether the investigation has included the information necessary to determine whether the proposed rural water supply project satisfies the criteria promulgated under subsection (d).

**(2) No satisfaction of criteria**

If the Secretary determines that the appraisal investigation submitted by a non-Federal entity does not satisfy the criteria promulgated under subsection (d), the Secretary shall inform the non-Federal entity of the reasons why the appraisal investigation is deficient.

**(3) Responsibility of Secretary**

If an appraisal investigation as first submitted by a non-Federal entity does not provide all necessary information, as defined by the Secretary, the Secretary shall have no obligation to conduct further analysis until the non-Federal project entity submitting the appraisal study conducts additional investigation and resubmits the appraisal investigation under this subsection.

**(f) Appraisal report**

Once the Secretary has determined that an investigation provides the information necessary under subsection (e), the Secretary shall—

(1) complete the appraisal report required under subsection (c);

(2) make available to the public, on request, the appraisal report prepared under this subchapter; and

(3) promptly publish in the Federal Register a notice of the availability of the results.

**(g) Costs**

**(1) Federal share**

The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

**(2) Non-Federal share**

**(A) In general**

Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

**(B) Exception**

The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

**(C) Form**

The non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the appraisal investigation.

**(h) Consultation; identification of funding sources**

In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

(2) consult with the heads of appropriate Federal agencies to—

(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

(3) identify what funding sources are available for the proposed rural water supply project.

(Pub. L. 109–451, title I, § 105, Dec. 22, 2006, 120 Stat. 3349.)

**§ 2405. Feasibility studies**

**(a) In general**

On completion of an appraisal report under section 2404(c) of this title that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

(2) receive and review a feasibility study that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity; or

(3)(A) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

(i) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

(ii) using the non-Federal project entity to conduct the feasibility study is a cost-effective alternative for completing the appraisal investigation; or

(B) if the Secretary determines not to provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity under subparagraph (A), provide to the non-Federal project entity notice of the determination, including an explanation of the reason for the determination.

**(b) Review of non-Federal feasibility studies**

**(1) In general**

In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

**(2) Revisions**

If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

**(c) Feasibility factors**

Feasibility studies authorized or reviewed under this subchapter shall include an assessment of—

(1) near- and long-term water demand in the area to be served by the rural water supply project;

(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

(4) environmental quality and source water protection issues related to the rural water supply project;

(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

(A) nonstructural approaches to reduce the need for the project; and

(B) demonstration technologies;

(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

(8) the availability of guaranteed loans for a proposed rural water supply project;

(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project that includes a schedule identifying the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the project;

(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

(12) the extent to which assistance for rural water supply is available under other Federal authorities;

(13) the engineering, environmental, and economic activities to be undertaken to carry out the proposed rural water supply project;

(14) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

(15) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

**(d) Feasibility study criteria**

**(1) In general**

Not later than 18 months after December 22, 2006, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

**(2) Inclusions**

The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

**(e) Feasibility report**

**(1)[1] In general**

After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

(A) develop a feasibility report that includes—

(i) a recommendation of the Secretary on—

(I) whether the rural water supply project should be authorized for construction; and

(II) the appropriate non-Federal share of construction costs, which shall be—

(aa) at least 25 percent of the total construction costs; and

(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

(ii) if the Secretary recommends that the project should be authorized for construction—

(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

(C) make the report publicly available, along with associated study documents; and

(D) publish in the Federal Register a notice of the availability of the results.

**(f) Capability-to-pay**

**(1) In general**

In evaluating a proposed rural water supply project under this section, the Secretary shall—

(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay 25 percent or more of the capital construction costs of the rural water supply project; and

(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

**(2) Factors**

In determining the financial capability of non-Federal project entities to pay for a rural

[1] So in original. No par. (2) has been enacted.

water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State average, including—

(A) per capita income;

(B) median household income;

(C) the poverty rate;

(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

(E) the strength of the balance sheet of the non-Federal project entity; and

(F) the existing cost of water in the region.

**(3) Indian tribes**

In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

(A) the costs allocated to the beneficiaries; or

(B) an appropriate portion of the costs.

**(g) Cost-sharing requirement**

**(1) In general**

Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

**(2) Form**

The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

**(3) Financial hardship**

The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

**(4) Larger communities**

In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the non-Federal project entity to pay more than 50 percent of the costs of the study.

**(h) Consultation and cooperation**

In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this subchapter.

(Pub. L. 109–451, title I, § 106, Dec. 22, 2006, 120 Stat. 3351.)

### § 2406. Miscellaneous

**(a) Authority of Secretary**

The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this subchapter.

**(b) Transfer of projects**

Nothing in this subchapter authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

**(c) Federal reclamation law**

Nothing in this subchapter supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

**(d) Interagency coordination**

The Secretary shall coordinate the Program carried out under this subchapter with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

**(e) Multiple Indian tribes**

In any case in which a contract is entered into with, or a grant is made, to[1] an organization to perform services benefitting more than 1 Indian tribe under this subchapter, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

**(f) Ownership of facilities**

Title to any facility planned, designed, and recommended for construction under this subchapter shall be held by the non-Federal project entity.

**(g) Expedited procedures**

If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 2404 of this title and feasibility studies and reports conducted under section 2405 of this title.

**(h) Effect on State water law**

**(1) In general**

Nothing in this subchapter preempts or affects State water law or an interstate compact governing water.

**(2) Compliance required**

The Secretary shall comply with State water laws in carrying out this subchapter.

**(i) No additional requirements**

Nothing in this subchapter requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before December 22, 2006.

(Pub. L. 109–451, title I, § 107, Dec. 22, 2006, 120 Stat. 3355.)

### § 2407. Reports

Beginning in fiscal year 2007, and each fiscal year thereafter through fiscal year 2012, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Rep-

[1] So in original. The comma probably should follow ''to''.

resentatives an annual report that describes the number and type of full-time equivalent positions in the Department of the Interior and the amount of overhead costs of the Department of the Interior that are allocated to carrying out this subchapter for the applicable fiscal year.

(Pub. L. 109–451, title I, § 108, Dec. 22, 2006, 120 Stat. 3356.)

### § 2408. Authorization of appropriations

**(a) In general**

There is authorized to be appropriated to carry out this subchapter $15,000,000 for each of fiscal years 2007 through 2016, to remain available until expended.

**(b) Rural water programs assessment**

Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 2403 of this title for each of fiscal years 2007 and 2008.

**(c) Construction costs**

No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

(Pub. L. 109–451, title I, § 109, Dec. 22, 2006, 120 Stat. 3356.)

### § 2409. Termination of authority

The authority of the Secretary to carry out this subchapter terminates on September 30, 2016.

(Pub. L. 109–451, title I, § 110, Dec. 22, 2006, 120 Stat. 3356.)

## SUBCHAPTER II—TWENTY-FIRST CENTURY WATER WORKS

### § 2421. Definitions

In this subchapter:

**(1) Indian tribe**

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

**(2) Lender**

The term ''lender'' means—

(A) a non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation[1] (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)); or

(B) a clean renewable energy bond lender (as defined in section 54(j)(2) of title 26 (as in effect on December 22, 2006)).

**(3) Loan guarantee**

The term ''loan guarantee'' has the meaning given the term ''loan guarantee'' in section 661a of title 2.

**(4) Non-Federal borrower**

The term ''non-Federal borrower'' means—

(A) a State (including a department, agency, or political subdivision of a State); or

(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

**(5) Obligation**

The term ''obligation'' means a loan or other debt obligation that is guaranteed under this section.

**(6) Project**

The term ''project'' means—

(A) a rural water supply project (as defined in section 2401(9) of this title);

(B) an extraordinary operation and maintenance activity for, or the rehabilitation or replacement of, a facility—

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law; or

(C) an improvement to water infrastructure directly associated with a reclamation project that, based on a determination of the Secretary—

(i) improves water management; and

(ii) fulfills other Federal goals.

**(7) Secretary**

The term ''Secretary'' means the Secretary of the Interior.

(Pub. L. 109–451, title II, § 202, Dec. 22, 2006, 120 Stat. 3356.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in par. (2)(A), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

SHORT TITLE

This subchapter known as the ''Twenty-First Century Water Works Act'', see Short Title note set out under section 2401 of this title.

### § 2422. Project eligibility

**(a) Eligibility criteria**

**(1) In general**

The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 2423 of this title.

**(2) Inclusions**

Eligibility criteria shall include—

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary,

[1] So in original. Probably should be ''Regulations''.

of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

**(b) Waiver**

The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

**(c) Projects previously authorized**

A project that was authorized for construction under Federal reclamation laws prior to December 22, 2006, shall be eligible for assistance under this subchapter, subject to the criteria established by the Secretary under subsection (a).

**(d) Criteria for rural water supply projects**

A rural water supply project that is determined to be feasible under section 2405 of this title is eligible for a loan guarantee under section 2423 of this title.

(Pub. L. 109–451, title II, § 203, Dec. 22, 2006, 120 Stat. 3357.)

**§ 2423. Loan guarantees**

**(a) Authority**

Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 2422 of this title loan guarantees to supplement private-sector or lender financing for the project.

**(b) Terms and limitations**

**(1) In general**

Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

**(2) Amount**

Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

**(3) Interest rate**

An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

**(4) Amortization**

A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

**(5) Nonsubordination**

An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

**(c) Prepayment and refinancing**

Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

(Pub. L. 109–451, title II, § 204, Dec. 22, 2006, 120 Stat. 3358.)

**§ 2424. Defaults**

**(a) Payments by Secretary**

**(1) In general**

If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

**(2) Payment required**

By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

**(3) Forbearance**

Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

**(b) Subrogation**

**(1) In general**

If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (notwithstanding any other provision of law) to—

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

**(2) Superiority of rights**

The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

**(c) Payment of principal and interest by Secretary**

With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal borrower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

**(d) Action by Attorney General**

**(1) Notification**

If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

**(2) Recovery**

On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

(Pub. L. 109–451, title II, § 205, Dec. 22, 2006, 120 Stat. 3358.)

### § 2425. Operations, maintenance, and replacement costs

**(a) In general**

The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this subchapter shall be 100 percent.

**(b) Plan**

On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

(Pub. L. 109–451, title II, § 206, Dec. 22, 2006, 120 Stat. 3360.)

### § 2426. Title to newly constructed facilities

**(a) New projects and facilities**

All new projects or facilities constructed in accordance with this subchapter shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

**(b) Existing projects and facilities**

Nothing in this subchapter affects the title of—

(1) reclamation projects authorized prior to December 22, 2006;

(2) works supplemental to existing reclamation projects; or

(3) works constructed to rehabilitate existing reclamation projects.

(Pub. L. 109–451, title II, § 207, Dec. 22, 2006, 120 Stat. 3360.)

### § 2427. Water rights

**(a) In general**

Nothing in this subchapter preempts or affects State water law or an interstate compact governing water.

**(b) Compliance required**

The Secretary shall comply with State water laws in carrying out this subchapter. Nothing in this subchapter affects or preempts State water law or an interstate compact governing water.

(Pub. L. 109–451, title II, § 208, Dec. 22, 2006, 120 Stat. 3360.)

### § 2428. Interagency coordination and cooperation

**(a) Consultation**

The Secretary shall consult with the Secretary of Agriculture before promulgating criteria with respect to financial appraisal functions and loan guarantee administration for activities carried out under this subchapter.

**(b) Memorandum of agreement**

The Secretary and the Secretary of Agriculture shall enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this subchapter.

(Pub. L. 109–451, title II, § 209, Dec. 22, 2006, 120 Stat. 3360.)

### § 2429. Records; audits

**(a) In general**

A recipient of a loan guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

**(b) Access**

The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(Pub. L. 109–451, title II, § 210, Dec. 22, 2006, 120 Stat. 3360.)

### § 2430. Full faith and credit

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

(Pub. L. 109–451, title II, § 211, Dec. 22, 2006, 120 Stat. 3360.)

### § 2431. Report

Not later than 1 year after the date on which the eligibility criteria are published in the Federal Register under section 2422(a) of this title, and every 2 years thereafter, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a re-

port that describes the implementation of the loan guarantee program under section 2423 of this title.

(Pub. L. 109–451, title II, § 212, Dec. 22, 2006, 120 Stat. 3361.)

### § 2432. Effect on the reclamation laws

#### (a) Reclamation projects

Nothing in this subchapter supersedes or amends any Federal law associated with a project, or a portion of a project, constructed under the reclamation laws.

#### (b) No new or supplemental benefits

Any assistance provided under this subchapter shall not—

(1) be considered to be a new or supplemental benefit for purposes of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.); or

(2) affect any contract in existence on December 22, 2006, that is executed under the reclamation laws.

(Pub. L. 109–451, title II, § 213, Dec. 22, 2006, 120 Stat. 3361.)

REFERENCES IN TEXT

The Reclamation Reform Act of 1982, referred to in subsec. (b)(1), 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.

### § 2433. Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out this subchapter, to remain available until expended.

(Pub. L. 109–451, title II, § 214, Dec. 22, 2006, 120 Stat. 3361.)

### § 2434. Termination of authority

#### (a) In general

Subject to subsection (b), the authority of the Secretary to carry out this subchapter terminates on the date that is 10 years after December 22, 2006.

#### (b) Exception

The termination of authority under subsection (a) shall have no effect on—

(1) any loans guaranteed by the United States under this subchapter; or

(2) the administration of any loan guaranteed under this subchapter before the effective date of the termination of authority.

(Pub. L. 109–451, title II, § 215, Dec. 22, 2006, 120 Stat. 3361.)