

ury shall take into account amounts that the Administrator has repaid in advance of any repayment criteria in determining whether to increase such rate. Before such rate is increased, the Secretary of the Treasury, in consultation with the Administrator and the Federal Energy Regulatory Commission, must be satisfied that the Administrator will have the ability to pay such increased rate, taking into account the Administrator's obligations. Such increase shall terminate with the fiscal year in which repayments (including repayments of the increased rate) are in accordance with the repayment criteria of the Secretary of Energy. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed \$1,250,000,000 prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional \$1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds.

**(b) Payment of principal, premiums, and interest from net proceeds; "net proceeds" defined**

The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 838i(b)(2) through (b)(7), (b)(11), and (b)(12) of this title, and shall include reserve or other funds created from such receipts.

**(c) Purchase and sale by Secretary of the Treasury; public debt transactions**

The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this chapter and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Administrator under this chapter. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this chapter. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States.

(Pub. L. 93-454, §13, Oct. 18, 1974, 88 Stat. 1380; Pub. L. 96-501, §8(c), (d), Dec. 5, 1980, 94 Stat. 2728, 2729.)

REFERENCES IN TEXT

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in subsec. (a), is Pub. L. 96-501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

CODIFICATION

In subsec. (c), "chapter 31 of title 31" substituted for "the Second Liberty Bond 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

1980—Subsec. (a). Pub. L. 96-501, §8(d), inserted provision relating to the implementation of the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, inserted "issued by Government corporations" after "rates prevailing in the market for similar bonds", increased the existing \$1,250,000,000 aggregate principal limitation by an additional \$1,250,000,000 after Oct. 1, 1981, to be used to provide funds for conservation and renewable resource loans and grants in a special revolving account created for that purpose, and inserted provision that, beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to that year to be repaid to the Treasury by the end of that year under the repayment criteria of the Secretary of Energy and if that failure is due to reasons other than a decrease in power sale revenues due to fluctuating streamflows or other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during that fiscal year.

Subsec. (b). Pub. L. 96-501, §8(c), substituted ". (b)(11), and (b)(12) of this title," for "and (b)(11) of this title,".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-501 effective Dec. 5, 1980, see section 11 of Pub. L. 96-501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

**§ 838I. Bonneville Power Administration refinancing**

**(a) Definitions**

For the purposes of this section—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 838k of this title;

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) “old capital investment” means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) “repayment date” means the end of the period within which the Administrator’s rates are to assure the repayment of the principal amount of a capital investment; and

(6) “Treasury rate” means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

**(b) New principal amounts**

**(1) Principal amount**

Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to \$100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

**(2) Determination**

With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) of this section and the assignment of interest rates to the new principal amounts under subsection (c) of this section.

**(3) Old payment amounts**

For the purposes of this subsection, “old payment amounts” means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

**(c) Interest rate for new principal amounts**

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) of this section bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

**(d) Repayment dates**

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) of this section is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A) of this section.

**(e) Prepayment limitations**

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under subsection (b) of this section, that the Administrator may pay before their respective repayment dates shall not exceed \$100,000,000.

**(f) Interest rates for new capital investments during construction**

**(1) New capital investment**

The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

**(2) Payment**

The Administrator is not required to pay, during construction of the project, facility, or

separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1) of this section.

**(3) One-year rate**

For the purposes of this section, “one-year rate” for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

**(g) Interest rates for new capital investments**

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

**(h) Omitted**

**(i) Contract provisions**

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b) of this section;

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c) of this section;

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) of this section and to pay the interest on the principal amount under subsection (c) of this section, no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31 shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of

the contract provisions required by this Part;<sup>1</sup> and

(4) the contract provisions specified in this Part<sup>1</sup> do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator’s authority under applicable law, including section 839e(g) of this title, to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

**(j) Savings provisions**

**(1) Repayment**

This section does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the “Administrator’s net proceeds,” as defined in section 838k(b) of this title.

**(2) Payment of capital investment**

Except as provided in subsection (e) of this section, this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

(Pub. L. 104-134, title III, §3201, Apr. 26, 1996, 110 Stat. 1321-350.)

CODIFICATION

Section was enacted as part of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, and not as part of the Federal Columbia River Transmission System Act which comprises this chapter.

Section is comprised of section 3201 of Pub. L. 104-134. Subsec. (h) of section 3201 of Pub. L. 104-134 amended section 6 of Pub. L. 103-436, which is not classified to the Code.

**CHAPTER 12H—PACIFIC NORTHWEST ELECTRIC POWER PLANNING AND CONSERVATION**

Sec.	Congressional declaration of purpose.
839a.	Definitions.
839b.	Regional planning and participation.
839c.	Sale of power.
839d.	Conservation and resource acquisition.
839d-1.	Federal projects in Pacific Northwest.
839e.	Rates.
839f.	Administrative provisions.
839g.	Savings provisions.
839h.	Separability.

**§ 839. Congressional declaration of purpose**

The purposes of this chapter, together with the provisions of other laws applicable to the Federal Columbia River Power System, are all intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

<sup>1</sup> So in original. Probably should be “section;” or “section”.