

(Pub. L. 93-320, title I, §111, as added Pub. L. 96-336, §7, Sept. 4, 1980, 94 Stat. 1065.)

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) 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

Pub. L. 98-569, §6, Oct. 30, 1984, 98 Stat. 2939, 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) 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 fea-

¹ So in original.

sibility 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) 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) 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 program 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), 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), 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): *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), 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), 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)” 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