

of reducing duplication of effort for State, regional, tribal, and local stakeholders.

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

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

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

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

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

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

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

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

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

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

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

BARACK OBAMA.

SUBCHAPTER I—DROUGHT PROGRAM

§ 2211. Assistance during drought; water purchases

(a) Construction, management, and conservation

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

(b) Assistance to willing buyers and sellers

In order to minimize losses and damages resulting from drought conditions, the Secretary

may provide nonfinancial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) Water purchases by Bureau

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

(d) Water banks

In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

(Pub. L. 102–250, title I, §101, Mar. 5, 1992, 106 Stat. 53.)

REFERENCES IN TEXT

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

TERMINATION OF AUTHORITIES

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

DESERT TERMINAL LAKES

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

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

§ 2212. Availability of water on temporary basis

(a) General authority

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

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

(1) Temporary supplies

Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination

by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) Ownership and acreage limitations

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

(3) Treatment under Reclamation Reform Act of 1982

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

(4) Amendments of existing contracts

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

(c) Contract price

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

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

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

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of

the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided*, That for all deliveries of water for municipal and industrial purposes from existing facilities to nonproject contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) Fish and wildlife

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

(e) Nonproject water

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

(f) Reclamation Fund

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

(Pub. L. 102-250, title I, §102, Mar. 5, 1992, 106 Stat. 54.)

REFERENCES IN TEXT

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

TERMINATION OF AUTHORITIES

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

§ 2213. Loans

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

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

REFERENCES IN TEXT

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

AMENDMENTS

1994—Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” before “of the House”.

TERMINATION OF AUTHORITIES

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

§ 2214. Applicable period of drought program**(a) In general**

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

the approval of a drought contingency plan as provided in subchapter II of this chapter.

(b) Coordination with BPA

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

(c) Termination of authority

The authorities established under this subchapter shall terminate on September 30, 2017.

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

AMENDMENTS

2014—Subsec. (c). Pub. L. 113-76 substituted “2017” for “2012”.

2010—Subsec. (c). Pub. L. 111-212 substituted “September 30, 2012” for “September 30, 2010”.

2006—Subsec. (c). Pub. L. 109-234 substituted “September 30, 2010” for “September 30, 2005”.

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

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

§ 2215. Assistance for drought-related planning in reclamation States**(a) In general**

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

(b) Report

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

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

SUBCHAPTER II—DROUGHT CONTINGENCY PLANNING

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

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