

the probability that all these lands or interests in lands can be secured, with titles and at prices satisfactory to him; and (2) the Secretary has found (i) that water rights adequate for the purposes of the project have been acquired with titles and at prices satisfactory to him, or that such water rights have been initiated and in his judgment can be perfected in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him; and (ii) that such water rights can be utilized for the purposes of the project in conformity with State law and any applicable interstate agreements and in a manner satisfactory to him.

**(c) Division of project**

Any part of a project hereunder may be designated as a division of the project by the Secretary if he, after consultation with the Secretary of Agriculture, deems this desirable for orderly and efficient construction or administration. The term "project", as used in subsection (b) and section 590z-2 of this title, shall be deemed to mean also "division of a project", designated as provided in this subsection. Any project authorized for construction from appropriations under the head "Water Conservation and Utility Projects" in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), hereinafter called the 1940 water conservation appropriation, may be designated by the Secretary, upon agreement with the Secretary of Agriculture, a project under this subchapter, and shall thereupon be subject to all the provisions and requirements thereof, except those of subsections (a) and (b).

(Aug. 11, 1939, ch. 717, § 3, 53 Stat. 1419; Oct. 14, 1940, ch. 861, 54 Stat. 1120; July 16, 1943, ch. 242, §§ 2-4, 57 Stat. 567; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

The head "Water Conservation Utility Projects" in the Interior Department Appropriation Act, 1940 [ch. 119] (53 Stat. 685), referred to in subsec. (c), was not classified to the Code.

AMENDMENTS

1943—Subsec. (a)(vii). Act July 16, 1943, § 2, inserted "Secretary after consultation with the" after "as recommended".

Subsec. (b). Act July 16, 1943, § 3, amended subsec. (b) generally.

Subsec. (c). Act July 16, 1943, § 4, added subsec. (c).

1940—Act Oct. 14, 1940, reenacted section.

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 military Department of the Army under administrative supervision of Secretary of the Army.

CONSTRUCTION WITH SECTION 701-1 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.

TRANSFER OF FUNCTIONS

Works Projects Administration and its functions transferred to Federal Works Agency by Reorg. Plan

No. 1 of 1939, §§ 301, 306, eff. July 1, 1939, 4 F.R. 2729, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Works Agency transferred to General Services Administration by act June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380. See Historical and Revision Notes under section 303(b) of Title 40, Public Buildings, Property, and Works. Section 303(b) of Title 40 was amended generally by Pub. L. 109-313, § 2(a)(1), Oct. 6, 2006, 120 Stat. 1734, and, as so amended, no longer relates to the Federal Works Agency and Commissioner of Public Buildings. See 2006 Amendment note under section 303 of Title 40.

**§ 590z-2. Repayment contracts**

**(a) Necessity**

No water for irrigation may be delivered from the works of any project constructed under the authority of this subchapter until after the repayment contract or contracts required by this section have been executed. Where practicable in the judgment of the Secretary, the repayment contract shall be with a water users' organization or organizations satisfactory in form and powers to the Secretary; and otherwise the repayment contract shall be with the individual landowners. The contract or contracts shall contain such provisions as the Secretary deems necessary to carry out the purposes of this subchapter and to protect the interests of the United States.

**(b) "Reimbursable construction costs" defined**

The term "reimbursable construction costs" as used in this subchapter means that part of the costs of investigating, constructing, and operating and maintaining the project, which are allocated by the Secretary to irrigation, and which are met by expenditures of moneys therefor appropriated under the authority of section 590z-10(1) of this title, plus such amounts as the President, under section 590z(1) of this title, may determine to be reimbursable: *Provided*, That administrative expenses incurred in the District of Columbia in connection with the investigation construction, or operation and maintenance of a project shall not be included in the reimbursable construction costs nor shall they be charged to the water users in any way.

**(c) Terms**

The repayment contract or contracts for a project shall, in their aggregate, provide for repayment to the United States of the total amount of the reimbursable construction costs of the project allocated to irrigation. Each such contract shall provide, among other things, that—

(1) The Secretary shall fix a development period for each project of not to exceed ten years from and including the first calendar year in which water is delivered for the lands in said project; and during the development period water shall be delivered to the lands in the project involved at a charge per acre-foot, or other charge, to be fixed by the Secretary each year and to be paid in advance of delivery of water. Such charges shall be fixed with a view of returning such amounts as in the Secretary's judgment are justified by the rate of project development, including as a minimum the return over the full development period of

that part of the cost of operating and maintaining the project, during said period, allocated by the Secretary to irrigation; and collections of such charges in excess of the cost of the operation and maintenance during the development period, as thereafter determined by the Secretary, shall be credited to the reimbursable construction costs of the project in the manner determined by the Secretary.

(2) The United States shall operate and maintain the project during the development period fixed for it. After the development period, the United States shall operate and maintain the project or any part thereof as long as is deemed necessary by the Secretary, and shall be paid in advance for each year that part of the estimated cost of operating and maintaining the project for such year allocated by the Secretary to irrigation. In the event charges due the United States are not paid when due the United States may, at its election, suspend operations in whole or in part.

(3) The repayment of the reimbursable construction costs, except as to Indian lands which shall be repayable in accordance with existing law relating to Indian lands, shall be spread in not to exceed forty annual installments, of the number and amounts fixed by the Secretary; and the first annual installment under each contract shall become due and payable on the date fixed by the Secretary, in the year next following the last year of the development period fixed under subsection (c)(1): *Provided*, That the provisions of this subsection shall not be construed to modify the provisions of special legislation pertaining to any particular project.

(4) The water users or their organization will take such measures as the Secretary 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. Delinquencies in any payments due to the United States shall be penalized by a penalty of not less than one-half of 1 per centum per month. No water shall be delivered to or for any land or party while either said land or the organization in which it is located or said party is in arrears in the advance payment of operation and maintenance charges or development period charges under subsection (c)(1), or in arrears for more than twelve months in the payment of an installment of the reimbursable construction costs.

(5) The Secretary shall establish the size of farm units of irrigable lands on each project in accordance with his findings of the area sufficient in size for the support of a family on the lands to be irrigated. No water may be delivered to or for more than the farm unit area of irrigable lands in the project owned by a single landowner: *Provided*, That this subsection shall not apply to the United States or any agency or instrumentality thereof, corporate or otherwise. No water shall be delivered to or for any land, in a project area, transferred or disposed of subsequent to approval of the project by the President, and within three

years from the time water becomes available, unless and until it has been shown to the satisfaction of the Secretary or his duly authorized representative that the land has been transferred or disposed of at a price not exceeding the appraised value as determined by the Secretary or his duly authorized representatives, and upon proof of fraudulent representation as to the true consideration involved the Secretary is authorized to cancel the water right attaching to the land involved: *Provided further*, That nothing herein shall be construed to create authority to interfere with the delivery of water under prior rights.

(Aug. 11, 1939, ch. 717, § 4, as added Oct. 14, 1940, ch. 861, 54 Stat. 1121; amended July 16, 1943, ch. 242, § 5, 57 Stat. 567.)

#### REFERENCES IN TEXT

Herein, referred to in subsec. (c)(5), means act Aug. 11, 1939, which comprises this subchapter.

#### PRIOR PROVISIONS

A prior section 4 of act Aug. 11, 1939, ch. 717, 53 Stat. 1419, covered authorization of appropriations, prior to the general amendment of that act by act Oct. 14, 1940. See section 590z-10 of this title.

#### AMENDMENTS

1943—Subsec. (d). Act July 16, 1943, added subsec. (d).

#### EXPIRATION OF SUBSECTION (d)

Subsection (d) of this section, by the terms thereof, ceased to be of force and effect, except as to certain projects, six months after cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F.R. 1, set out as a note preceding section 1 of Title 50, War and National Defense.

#### 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 under this subchapter, see section 2 of Pub. L. 85-611, Aug. 8, 1958, 72 Stat. 542, set out as a note under section 485h of Title 43, Public Lands.

### § 590z-3. Settlement of projects on agricultural basis

#### (a) Rehabilitation; stabilization of agricultural economy; maximum utilization of funds

In connection with the construction or operation and maintenance of projects undertaken pursuant to the authority of this subchapter, and in order to further in the Great Plains and arid and semiarid areas of the United States an effective rehabilitation program, stabilization of the agricultural economy and maximum utilization of funds spent for relief purposes, the Secretary of Agriculture is authorized, pursuant to cooperative agreement with the Secretary of the Interior, (1) to arrange for the settlement of the projects on a sound agricultural basis, and insofar as practicable, the location thereon of persons in need; (2) to extend guidance and advice to settlers thereon in matters of farm practice, soil conservation, and efficient land use; (3) to acquire agricultural lands within the boundaries of such projects, with titles and at prices satis-