

fect, 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.

### Statutory Notes and Related Subsidiaries

#### 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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

#### WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

#### 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

Pub. L. 85-611, §2, Aug. 8, 1958, 72 Stat. 542, 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<sup>1</sup>

(5) Provide<sup>2</sup> 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.<sup>3</sup>

(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.)

#### Editorial Notes

##### 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.

<sup>1</sup> So in original. The word "and" probably should not appear.

<sup>2</sup> So in original. Probably should not be capitalized.

<sup>3</sup> So in original. The period probably should be "; and".

#### § 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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.)

#### Editorial Notes

##### 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.