

Reclamation Manual

Directives and Standards

- Subject:** Title II, Reclamation States Emergency Drought Relief Act of 1991 (Act), as amended (Public Laws 102-250 and 106-566)
- Purpose:** Identifies Reclamation's process for administering and implementing drought contingency planning assistance within the 50 U.S. States and Territories and to local and tribal government entities.
- Authority:** Title II, Reclamation States Emergency Drought Relief Act of 1991 (Public Law 102-250, 43 U.S.C. §§2201-2214), as amended by Public Law 106-566.
- Contact:** Water Resources Office, D-5500
-

1. Summary of Authorities.

- A. **Section 201** of the Act authorizes the Secretary to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies and Indian water resource developments in response to drought conditions and to provide technical assistance with water desalinization projects.
- B. **Section 202** allows the Secretary to prepare, or participate in the preparation of, cooperative drought contingency plans (Plans), in cooperation with Federal and State officials, Indian tribes, public, private, and local entities.
- C. **Section 203** requires Plans to identify elements that would and those that would not involve Reclamation facilities and obligations; requires Plans to include a provision for periodic review and modification, as appropriate; and requires Plans to comply with applicable Federal and State laws, including the National Environmental Policy Act (NEPA).
- D. **Section 204** requires the Secretary to submit the Plans to Congress and make recommendations for authorizing legislation, as needed. Before submitting a plan, the States of Washington, Oregon, Idaho, and Montana must confer with the Bonneville Power Administration and the other States in the region.
- E. **Section 205** requires the Secretary to study whether a drought response fund is needed to assist in implementing the plans.
- F. **Section 206** authorizes the Secretary to provide technical assistance to all non-reclamation states as well as to United States' territories and to conduct a precipitation management program to help alleviate problems caused by precipitation variability and droughts in the West.

Reclamation Manual

Directives and Standards

2. Authorized Actions.

- A. **Studies.** Reclamation may conduct studies regarding the efficient use of water supplies available to Reclamation projects and use of Indian water resource developments in order to be prepared for and better respond to drought conditions.
- B. **Water Desalination.** Reclamation may provide technical and financial assistance to State, local, and tribal governments in the development, construction, and operation of water desalinization projects. Assistance may include assessment of the technical and economic feasibility of such projects.
- C. **Drought Contingency Plans.** In consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, Reclamation may prepare, or participate in the preparation of, Plans for the prevention or mitigation of drought impacts.
- D. **Financial Assistance.** Financial assistance for Title II Plans is authorized under section 105 of the Act. The Secretary may provide financial assistance in the form of cooperative agreements to States, Indian tribes, public, private, and local entities located within the 17 Reclamation States and Hawaii. Pursuant to Public Law 93-638, an Indian tribe is entitled to contract for any activities that Reclamation would otherwise conduct pursuant to Section 201 or 202 of Title II of the Act on the tribe's behalf which would benefit the tribe exclusively.
- E. **Technical Assistance.** Reclamation may provide technical assistance for drought contingency planning in any of the United States, the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Island, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.
- F. **Precipitation Management Technology.** Reclamation is authorized to conduct a "Precipitation Management Technology Transfer Program" and, in consultation with local interests, conduct field studies cost-shared on a 50-50 basis to validate and quantify the potential for precipitation management technology to augment stream flows. Reclamation will transfer validated technologies to non-Federal interests for operational implementation.

Reclamation Manual

Directives and Standards

3. Cooperative Drought Contingency Plans.

- A. **Plan Elements.** A Plan is required to identify two types of plan elements: (1) Those elements that pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and (2) Those elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by Reclamation law. A Plan must also include provisions for periodic review to ensure the adequacy of the Plan and to modify the Plan, if appropriate.
- B. **Potential Elements.** The Act does not require any other specific elements to be included in a Plan. However, it does recommend potential elements that may be included: water banks, conservation activities, water transfers, use of project facilities, use of inactive reservoir storage or ground water, water supplies for fish and wildlife, and minor structural actions. The Plan should include recommendations regarding mitigation strategies but should not identify specific costs for those proposed actions. The checklist (Appendix A) identifies specific information to assist the Regional Drought Coordinator with development of cooperative drought contingency plans.

4. NEPA Compliance.

- A. **NEPA Documentation.** Reclamation's technical assistance, preparation of Plans for States or tribes, or the Commissioner's submittal of Plans to Congress are not in themselves Federal actions that would trigger the need for NEPA compliance. Therefore, no NEPA documentation would be required for these activities. NEPA documentation may be required to implement the plan, depending on whether there is a Federal action.
- B. **Impact.** The Council on Environmental Quality's regulations require that a draft environmental impact statement be included with any recommendation to Congress for authorizing legislation that would significantly affect the quality of the human environment. Therefore, NEPA documentation is required if Reclamation includes such recommendations when it submits the Plan to Congress. Reclamation has determined that an environmental assessment and a Finding of No Significant Impact or Categorical Exclusion, when appropriate, would suffice in cases where the recommended legislation would not result in a significant impact.
5. **Review and Approval Process.** See the flow chart (Appendix B) that delineates the review and approval process for Title II assistance. The checklist (Appendix A) emphasizes the need to coordinate with other participating Federal agencies. The attached sample letter (Appendix C) is provided to allow participating Federal agencies the opportunity to submit comments regarding the Plan. Reclamation's role in the Plan approval process is ensuring

Reclamation Manual

Directives and Standards

that the Plans meet Congressional intent under the Act and not one of seeking additional authority or recommending funding to implement the plan.

6. Responsibilities.

A. Area Office Drought Coordinators:

- (1) After receiving request for assistance, the Area Office Drought Coordinator will forward a request for Title II assistance to the Regional Drought Coordinator.
- (2) Once a Plan is completed, the Area Office Drought Coordinator will contact any Federal agencies, in which the Plan identifies elements that would involve those agencies to offer them an opportunity to comment on the Plan.

B. Regional Drought Coordinators.

- (1) After receiving approval from the Regional Director, the Regional Coordinators will forward requests for Title II assistance to the Reclamation Drought Coordinator, using the request form in Reclamation Manual, *Title I Reclamation States Emergency Drought Relief Act of 1991*, WTR 0X-0X (Appendix C), and prioritize requests.
- (2) Regional Drought Coordinators will ensure that Plans identify whether each element contained within the Plan will involve a Reclamation project or obligation and that the Plan includes a provision for periodic review to ensure the adequacy of the Plan and to modify the Plan, if necessary.
- (3) The Regional Coordinators are responsible for maintaining a documentation file on any request and subsequent action.

C. **Regional Office.** The Regional Office will forward copies of the final Plans to the Reclamation Drought Coordinator and make special note of those plan elements that pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project. The Regional Office must also recommend whether the Plan meets the goals and intentions of Title II of the Act.

D. The **Reclamation Drought Coordinator** will:

- (1) Acknowledge receipt of a drought assistance request within 30 days of receipt; consult with the Commissioner and the Regional and Area Office Drought Coordinators regarding Reclamation's response to requests for Title II assistance;

Reclamation Manual

Directives and Standards

draft the response letter; and arrange for Reclamation's assistance if the request is approved, and

- (2) Forward completed Plans to the Commissioner for submittal to Congress on behalf of the Secretary of the Interior.

7. **Precipitation Management Technology Program.**

- A. **Studies.** As part of a balanced long-term water resources development and management program, Reclamation may conduct studies on precipitation management technology to help alleviate problems caused by precipitation variability and droughts in the West. These studies may be in the form of research, demonstration projects, or pilot programs. The purpose of the studies are to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. At the end of the study, Reclamation will transfer validated technologies to non-Federal interests for operational implementation.
- B. **Request for Studies.** Upon request of any State, Tribe, or local governmental entity, Regional and Area Offices will determine whether a study would be beneficial and feasible, in which area to conduct the study, and whether another non-Federal entity is willing and able to enter into a 50-50 cost-share agreement. In making such determination, Reclamation will consult with State, tribal, and local water hydropower, water quality, and instream flow interests. The Regional Office may then forward a recommendation to the Commissioner for approval. The recommendation will include the form of the agreement (cooperative, in-kind services, etc.) and the determination that the proposed program has met all State and Federal law requirements, including NEPA, Endangered Species Act, and State water rights law .
- C. **Cost-Share Agreement.** Upon approval by the Commissioner and before conducting the study, the Regional or Area Office will enter into a cost-share agreement, in which 50 percent of the costs of the study are to be shared by a non-Federal entity. The agreement will provide that Reclamation will transfer validated technologies to non-Federal interests for operational implementation. The Regional Office will be responsible for keeping a documentation file of the agreements and activities under this section of the Act.