

Statutory Notes and Related Subsidiaries

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.

§ 3204. Critical maintenance and repair**(a) Critical failure at a reserved or transferred work****(1) In general**

A reserved or transferred work shall only be eligible for funding under section 3201(2)(A) of this title if—

(A) construction of the reserved or transferred work began on or before January 1, 1915; and

(B) a unit of the reserved or transferred work suffered a critical failure in Bureau of Reclamation infrastructure during the 2-year period ending on November 15, 2021, that resulted in the failure to deliver water to project beneficiaries.

(2) Use of funds

Rehabilitation, repair, and replacement activities for a transferred or reserved work using amounts made available under section 3201(2)(A) of this title may be used for the entire transferred or reserved work, regardless of whether the critical failure was limited to a single project of the overall work.

(3) Nonreimbursable funds

Notwithstanding section 510b(b) of this title, amounts made available to a reserved or transferred work under section 3201(2)(A) of this title shall be nonreimbursable to the United States.

(b) Carey Act projects

The Secretary shall use amounts made available under section 3201(2)(B) of this title to fund the rehabilitation, reconstruction, or replacement of a dam—

(1) the construction of which began on or after January 1, 1905;

(2) that was developed pursuant to section 4 of the Act of August 18, 1894 (commonly known as the “Carey Act”) (43 U.S.C. 641; 28 Stat. 422, chapter 301);

(3) that the Governor of the State in which the dam is located has—

(A) determined the dam has reached its useful life;

(B) determined the dam poses significant health and safety concerns; and

(C) requested Federal support; and

(4) for which the estimated rehabilitation, reconstruction, or replacement, engineering, and permitting costs would exceed \$50,000,000.

(Pub. L. 117-58, div. D, title IX, § 40904, Nov. 15, 2021, 135 Stat. 1121.)

Editorial Notes

REFERENCES IN TEXT

The Carey Act, referred to in subsec. (b)(2), is Aug. 18, 1894, ch. 301, § 4, 28 Stat. 422, which is classified to sec-

tion 641 of this title. For complete classification of this Act to the Code, see Tables.

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§ 3205. Competitive grant program for large-scale water recycling and reuse program**(a) Definitions**

In this section:

(1) Eligible entity

The term “eligible entity” means—

(A) a State, Indian Tribe, municipality, irrigation district, water district, wastewater district, or other organization with water or power delivery authority;

(B) a State, regional, or local authority, the members of which include 1 or more organizations with water or power delivery authority; or

(C) an agency established under State law for the joint exercise of powers or a combination of entities described in subparagraphs (A) and (B).

(2) Eligible project

The term “eligible project” means a project described in subsection (c).

(3) Program

The term “program” means the grant program established under subsection (b).

(4) Reclamation State

The term “Reclamation State” means a State or territory described in the first section of the Act of June 17, 1902 (43 U.S.C. 391; 32 Stat. 388, chapter 1093).

(b) Establishment

The Secretary shall establish a program to provide grants to eligible entities on a competitive basis for the planning, design, and construction of large-scale water recycling and reuse projects that provide substantial water supply and other benefits to the Reclamation States in accordance with this section.

(c) Eligible project

A project shall be eligible for a grant under this section if the project—

(1) reclaims and reuses—

(A) municipal, industrial, domestic, or agricultural wastewater; or

(B) impaired groundwater or surface water;

(2) has a total estimated cost of \$500,000,000 or more;

(3) is located in a Reclamation State;

(4) is constructed, operated, and maintained by an eligible entity; and

(5) provides a Federal benefit in accordance with the reclamation laws.

(d) Project evaluation

The Secretary may provide a grant to an eligible project under the program if—

(1) the eligible entity determines through the preparation of a feasibility study or equivalent study, and the Secretary concurs, that the eligible project—

- (A) is technically and financially feasible;
- (B) provides a Federal benefit in accordance with the reclamation laws; and
- (C) is consistent with applicable Federal and State laws;

(2) the eligible entity has sufficient non-Federal funding available to complete the eligible project, as determined by the Secretary;

(3) the eligible entity is financially solvent, as determined by the Secretary; and

(4) not later than 30 days after the date on which the Secretary concurs with the determinations under paragraph (1) with respect to the eligible project, the Secretary submits to Congress written notice of the determinations.

(e) Priority

In providing grants to eligible projects under the program, the Secretary shall give priority to eligible projects that meet 1 or more of the following criteria:

- (1) The eligible project provides multiple benefits, including—
 - (A) water supply reliability benefits for drought-stricken States and communities;
 - (B) fish and wildlife benefits; and
 - (C) water quality improvements.

(2) The eligible project is likely to reduce impacts on environmental resources from water projects owned or operated by Federal and State agencies, including through measurable reductions in water diversions from imperiled ecosystems.

(3) The eligible project would advance water management plans across a multi-State area, such as drought contingency plans in the Colorado River Basin.

(4) The eligible project is regional in nature.

(5) The eligible project is collaboratively developed or supported by multiple stakeholders.

(f) Federal assistance

(1) Federal cost share

The Federal share of the cost of any project provided a grant under the program shall not exceed 25 percent of the total cost of the eligible project.

(2) Total dollar cap

The Secretary shall not impose a total dollar cap on Federal contributions for all eligible individual projects provided a grant under the program.

(3) Nonreimbursable funds

Any funds provided by the Secretary to an eligible entity under the program shall be considered nonreimbursable.

(4) Funding eligibility

An eligible project shall not be considered ineligible for assistance under the program because the eligible project has received assistance under—

- (A) the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.);

(B) section 4(a) of the Water Desalination Act of 1996 (42 U.S.C. 10301 note; Public Law 104-298) for eligible desalination projects; or

(C) section 1602(e) of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h(e)).

(g) Environmental laws

In providing a grant for an eligible project under the program, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(h) Guidance

Not later than 1 year after November 15, 2021, the Secretary shall issue guidance on the implementation of the program, including guidelines for the preparation of feasibility studies or equivalent studies by eligible entities.

(i) Reports

(1) Annual report

At the end of each fiscal year, the Secretary shall make available on the website of the Department of the Interior an annual report that lists each eligible project for which a grant has been awarded under this section during the fiscal year.

(2) Comptroller general

(A) Assessment

The Comptroller General of the United States shall conduct an assessment of the administrative establishment, solicitation, selection, and justification process with respect to the funding of grants under this section.

(B) Report

Not later than 1 year after the date of the initial award of grants under this section, the Comptroller General shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

- (i) the adequacy and effectiveness of the process by which each eligible project was selected, if applicable; and
- (ii) the justification and criteria used for the selection of each eligible project, if applicable.

(j) Treatment of conveyance

The Secretary shall consider the planning, design, and construction of a conveyance system for an eligible project to be eligible for grant funding under the program.

(k) Termination of authority

The authority to carry out this section terminates on the date that is 5 years after November 15, 2021.

(Pub. L. 117-58, div. D, title IX, § 40905, Nov. 15, 2021, 135 Stat. 1122.)

Editorial Notes

REFERENCES IN TEXT

The Reclamation Wastewater and Groundwater Study and Facilities Act, referred to in subsec.

(f)(4)(A), is title XVI of Pub. L. 102-575, Oct. 30, 1992, 106 Stat. 4663, which enacted sections 390h to 390h-15 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 390h of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (g), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

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§ 3206. Drought contingency plan funding requirements

(a) In general

Funds made available under section 3201(8) of this title for use in the Lower Colorado River Basin may be used for projects—

- (1) to establish or conserve recurring Colorado River water that contributes to supplies in Lake Mead and other Colorado River water reservoirs in the Lower Colorado River Basin; or
- (2) to improve the long-term efficiency of operations in the Lower Colorado River Basin.

(b) Limitation

None of the funds made available under section 3201(8) of this title may be used for the operation of the Yuma Desalting Plant.

(c) Effect

Nothing in section 3201(8) of this title limits existing or future opportunities to augment the water supplies of the Colorado River.

(Pub. L. 117-58, div. D, title IX, § 40906, Nov. 15, 2021, 135 Stat. 1124.)

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§ 3207. Multi-benefit projects to improve watershed health

(a) Definition of eligible applicant

In this section, the term “eligible applicant” means—

- (1) a State;
- (2) a Tribal or local government;
- (3) an organization with power or water delivery authority;
- (4) a regional authority; or
- (5) a nonprofit conservation organization.

(b) Establishment of competitive grant program

Not later than 1 year after November 15, 2021, the Secretary, in consultation with the heads of

relevant agencies, shall establish a competitive grant program under which the Secretary shall award grants to eligible applicants for the design, implementation, and monitoring of conservation outcomes of habitat restoration projects that improve watershed health in a river basin that is adversely impacted by a Bureau of Reclamation water project by accomplishing 1 or more of the following:

- (1) Ecosystem benefits.
- (2) Restoration of native species.
- (3) Mitigation against the impacts of climate change to fish and wildlife habitats.
- (4) Protection against invasive species.
- (5) Restoration of aspects of the natural ecosystem.
- (6) Enhancement of commercial, recreational, subsistence, or Tribal ceremonial fishing.
- (7) Enhancement of river-based recreation.

(c) Requirements

(1) In general

In awarding a grant to an eligible applicant under subsection (b), the Secretary—

(A) shall give priority to an eligible applicant that would carry out a habitat restoration project that achieves more than 1 of the benefits described in that subsection; and

(B) may not provide a grant to carry out a habitat restoration project the purpose of which is to meet existing environmental mitigation or compliance obligations under Federal or State law.

(2) Compliance

A habitat restoration project awarded a grant under subsection (b) shall comply with all applicable Federal and State laws.

(d) Cost-sharing requirement

The Federal share of the cost of any habitat restoration project that is awarded a grant under subsection (b)—

(1) shall not exceed 50 percent of the cost of the habitat restoration project; or

(2) in the case of a habitat restoration project that provides benefits to ecological or recreational values in which the nonconsumptive water conservation benefit or habitat restoration benefit accounts for at least 75 percent of the cost of the habitat restoration project, as determined by the Secretary, shall not exceed 75 percent of the cost of the habitat restoration project.

(Pub. L. 117-58, div. D, title IX, § 40907, Nov. 15, 2021, 135 Stat. 1125.)

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§ 3208. Federal assistance for groundwater recharge, aquifer storage, and water source substitution projects

(a) In general

The Secretary, at the request of and in coordination with affected Indian Tribes, States (in-