

§ 390g-2. Phase II of groundwater recharge demonstration program

(a) Design, construction, and operation of projects

During phase II, and subject to State water laws and interstate water compacts, the Bureau is authorized and directed to design, construct, and operate demonstration projects in the High Plains States and other Reclamation Act States to recharge groundwater systems as recommended in the report referred to in subsection (c).

(b) Alternative means of cost allocation; economic feasibility of projects

During phase II the Secretary, acting through the Bureau, shall contract with the various High Plains States and other Reclamation Act States to conduct a study to identify and evaluate alternative means by which the costs of groundwater recharge projects could be allocated among the beneficiaries of the projects within the respective States and identify and evaluate the economic feasibility of and the legal authority for utilizing groundwater recharge in water resource development projects.

(c) Reports to Congress

(1) Within twelve months after the initiation of phase II, and at annual intervals thereafter, the Secretary shall submit interim reports to Congress. Each report shall contain a detailed statement of his findings and progress respecting the design, construction, and operation of the demonstration projects referred to in subsection (a) and the study referred to in subsection (b).

(2) Within five years after the initiation of phase II, the Secretary shall submit a summary report to Congress. The summary report shall contain—

(A) a detailed evaluation of the demonstration projects referred to in subsection (a);

(B) the results of the studies referred to in subsection (b);

(C) specific recommendations regarding the location, scope, and feasibility of operational groundwater recharge projects to be constructed and maintained by the Bureau; and

(D) an evaluation of the feasibility of integrating these groundwater recharge projects into existing reclamation projects.

(3) In addition to recommendations made under section 390g-1 of this title, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

(4) Each project under this section shall terminate five years after the date on which construction on the project is completed.

(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.

(Pub. L. 98-434, §4, Sept. 28, 1984, 98 Stat. 1676; Pub. L. 102-575, title XXVI, §2601(1), (2), Oct. 30, 1992, 106 Stat. 4689.)

Editorial Notes

AMENDMENTS

1992—Subsec. (c). Pub. L. 102-575 substituted “summary report” for “final report” in two places in introductory provisions of par. (2) and added pars. (3) to (5).

§ 390g-3. Evaluation of water quality impacts

The Secretary, acting through the Bureau, and the Administrator of the Environmental Protection Agency (hereinafter referred to as the “Administrator”) shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to sections 390g to 390g-8 of this title. The Administrator shall consult with the United States Geological Survey and shall make maximum use of data, studies, and other technical resources and assistance available from State and local entities in conducting the evaluation. The evaluation of water quality impacts shall be completed so as to be included in the Secretary’s summary report to the Congress referred to in section 390g-2(c)(2) of this title.

(Pub. L. 98-434, §5, Sept. 28, 1984, 98 Stat. 1676; Pub. L. 102-575, title XXVI, §2601(1), Oct. 30, 1992, 106 Stat. 4689.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-575 substituted “summary report” for “final report”.

§ 390g-4. Authorization of appropriations to carry out phase I

There is authorized to be appropriated \$500,000 for fiscal years beginning after September 30, 1983, to carry out phase I. Amounts shall be made available pursuant to the authorization contained in this section in a single sum for all demonstration project sites, and it shall be within the discretion of the Secretary to apportion such sum among such sites.

(Pub. L. 98-434, §6, Sept. 28, 1984, 98 Stat. 1677.)

§ 390g-5. Authorization of appropriations to carry out phase II

There is authorized to be appropriated for fiscal years beginning after September 30, 1983, \$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein to carry out phase II. Amounts shall be made available pursuant to the authorization contained in this section in sums for individual projects based on findings of feasibility by the Secretary.

(Pub. L. 98-434, §7, Sept. 28, 1984, 98 Stat. 1677; Pub. L. 102-575, title XXVI, §2601(3), Oct. 30, 1992, 106 Stat. 4689.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-575 substituted “\$31,000,000 (October 1990 price levels) plus or minus such amounts, if any, as

may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein” for “\$20,000,000 (October 1983 price levels)”.

§ 390g-6. Matching basis for funding phase II from non-Federal sources

The funds authorized to be appropriated pursuant to section 390g-5 of this title shall match on a four-to-one basis funds made available by the States, their political subdivisions, or other non-Federal entities to meet the cost of phase II: *Provided*, That, inkind services or other contributions by the States, their political subdivisions, or other non-Federal entities shall be considered in the determination of the matching non-Federal share. The Secretary is authorized to enter into memoranda of agreement with any appropriate agencies or departments of the High Plains States and other Reclamation Act States to share the costs of phase II.

(Pub. L. 98-434, § 8, Sept. 28, 1984, 98 Stat. 1677.)

§ 390g-7. New spending authority

Any new spending authority described in subsection (c)(2)(A) or (B) of section 651¹ of title 2 which is provided under sections 390g to 390g-8 of this title (or under any amendment made by sections 390g to 390g-8 of this title) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 98-434, § 9, Sept. 28, 1984, 98 Stat. 1677.)

Editorial Notes

REFERENCES IN TEXT

Section 651 of title 2, referred to in text, was amended by Pub. L. 105-33, title X, § 10116(a)(3), (5), Aug. 5, 1997, 111 Stat. 691, by striking out subsec. (c) and redesignating former subsec. (d) as (c).

§ 390g-8. Interstate transfer of water from Arkansas

No funds authorized to be appropriated by sections 390g to 390g-8 of this title shall be used for any activities associated with:

- (1) the interstate transfer of water from the State of Arkansas; or
- (2) the study or demonstration of the potential for the interstate transfer of water from the State of Arkansas.

(Pub. L. 98-434, § 10, Sept. 28, 1984, 98 Stat. 1677.)

§ 390g-9. Aquifer recharge flexibility

(a) Short title

This section may be cited as the “Aquifer Recharge Flexibility Act”.

(b) Definitions

In this section:

(1) Bureau

The term “Bureau” means the Bureau of Reclamation.

(2) Commissioner

The term “Commissioner” means the Commissioner of Reclamation.

¹ See References in Text note below.

(3) Eligible land

The term “eligible land”, with respect to a Reclamation project, means land that—

- (A) is authorized to receive water under State law; and
- (B) shares an aquifer with land located in the service area of the Reclamation project.

(4) Net water storage benefit

The term “net water storage benefit” means an increase in the volume of water that is—

- (A) stored in 1 or more aquifers; and
- (B)(i) available for use within the authorized service area of a Reclamation project; or
- (ii) stored on a long-term basis to avoid or reduce groundwater overdraft.

(5) Reclamation facility

The term “Reclamation facility” means each of the infrastructure assets that are owned by the Bureau at a Reclamation project.

(6) Reclamation project

The term “Reclamation project” means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law or the Act of August 11, 1939 (commonly known as the “Water Conservation and Utilization Act”) (53 Stat. 1418, chapter 717; 16 U.S.C. 590y et seq.), or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau for the reclamation of land.

(c) Flexibility to allow greater aquifer recharge in Western States

(1) Use of Reclamation facilities

(A) In general

The Commissioner may allow the use of excess capacity in Reclamation facilities for aquifer recharge of non-Reclamation project water, subject to applicable rates, charges, and public participation requirements, on the condition that—

- (i) the use—
 - (I) shall not be implemented in a manner that is detrimental to—
 - (aa) any power service or water contract for the Reclamation project; or
 - (bb) any obligations for fish, wildlife, or water quality protection applicable to the Reclamation project;
 - (II) shall be consistent with water quality guidelines for the Reclamation project;
 - (III) shall comply with all applicable—
 - (aa) Federal laws; and
 - (bb) policies of the Bureau; and
 - (IV) shall comply with all applicable State laws and policies; and
- (ii) the non-Federal party to an existing contract for water or water capacity in a Reclamation facility consents to the use of the Reclamation facility under this subsection.