

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.

(B) Effect on existing contracts

Nothing in this subsection affects a contract—

- (i) in effect on December 27, 2020; and
- (ii) under which the use of excess capacity in a Bureau conveyance facility for carriage of non-Reclamation project water for aquifer recharge is allowed.

(2) Aquifer recharge on eligible land**(A) In general**

Subject to subparagraphs (C) and (D), the Secretary may contract with a holder of a water service or repayment contract for a Reclamation project to allow the contractor, in accordance with applicable State laws and policies—

- (i) to directly use water available under the contract for aquifer recharge on eligible land; or
- (ii) to enter into an agreement with an individual or entity to transfer water available under the contract for aquifer recharge on eligible land.

(B) Authorized project use

The use of a Reclamation facility for aquifer recharge under subparagraph (A) shall be considered an authorized use for the Reclamation project if requested by a holder of a water service or repayment contract for the Reclamation facility.

(C) Modifications to contracts

The Secretary may contract with a holder of a water service or repayment contract for a Reclamation project under subparagraph (A) if the Secretary determines that a new contract or contract amendment described in that subparagraph is—

- (i) necessary to allow for the use of water available under the contract for aquifer recharge under this subsection;
- (ii) in the best interest of the Reclamation project and the United States; and
- (iii) approved by the contractor that is responsible for repaying the cost of construction, operations, and maintenance of the facility that delivers the water under the contract.

(D) Requirements

The use of Reclamation facilities for the use or transfer of water for aquifer recharge under this subsection shall be subject to the requirements that—

- (i) the use or transfer shall not be implemented in a manner that materially impacts any power service or water contract for the Reclamation project; and
- (ii) before the use or transfer, the Secretary shall determine that the use or transfer—
 - (I) results in a net water storage benefit for the Reclamation project; or
 - (II) contributes to the recharge of an aquifer on eligible land; and
- (iii) the use or transfer complies with all applicable—
 - (I) Federal laws and policies; and
 - (II) interstate water compacts.

(3) Conveyance for aquifer recharge purposes

The holder of a right-of-way, easement, permit, or other authorization to transport water across public land administered by the Bureau of Land Management may transport water for aquifer recharge purposes without requiring additional authorization from the Secretary where the use does not expand or modify the operation of the right-of-way, easement, permit, or other authorization across public land.

(4) Effect

Nothing in this section creates, impairs, alters, or supersedes a Federal or State water right.

(5) Exemption

This section shall not apply to the State of California.

(6) Advisory group

The Secretary may participate in any State-led collaborative, multi-stakeholder advisory group created in any watershed the purpose of which is to monitor, review, and assess aquifer recharge activities.

(Pub. L. 116-260, div. FF, title XI, § 1105, Dec. 27, 2020, 134 Stat. 3237.)

REFERENCES IN TEXT

This section, referred to in subsecs. (b) and (c)(4), (5), was in the original “this Act”, which was translated as meaning section 1105 of Pub. L. 116-260, div. FF, title XI, Dec. 27, 2020, 134 Stat. 3237, to reflect the probable intent of Congress.

Act of August 11, 1939, referred to in subsec. (b)(6), is act Aug. 11, 1939, ch. 717, 53 Stat. 1418, popularly known as the Water Conservation and Utilization Act, which is classified generally to subchapter II (§590y et seq.) of chapter 3C of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

DEFINITIONS

For definition of “Secretary” as used in this section, see section 1115 of div. FF of Pub. L. 116-260, set out as a note under section 2330c of Title 33, Navigation and Navigable Waters.

§ 390h. Program to investigate reclamation and reuse of wastewater and groundwater; general authority**(a) Program established**

The Secretary of the Interior (hereafter “Secretary”), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter “Federal reclamation laws”), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) States included

Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) [43 U.S.C. 391] as amended, and the State of Hawaii.