

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.)

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, in kind 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.)

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).

¹ See References in Text note below.

§ 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.)

§ 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.

(c) Agreements and regulations

The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of sections 390h to 390h-39 of this title.

(d) San Luis Unit of Central Valley Project, California

The Secretary shall not investigate, promote or implement, pursuant to sections 390h to 390h-39 of this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(e) Authorization of new water recycling and reuse projects

(1) Submission to the Secretary

(A) In general

Non-Federal interests may submit proposals for projects eligible to be authorized pursuant to this section in the form of completed feasibility studies to the Secretary.

(B) Eligible projects

A project shall be considered eligible for consideration under this section if the project reclaims and reuses—

- (i) municipal, industrial, domestic, or agricultural wastewater; or
- (ii) impaired ground or surface waters.

(C) Guidelines

Within 60 days of the enactment of this Act the Secretary shall issue guidelines for feasibility studies for water recycling and reuse projects to provide sufficient information for the formulation of the studies.

(2) Review by the Secretary

The Secretary shall review each feasibility study received under paragraph (1)(A) for the purpose of—

- (A) determining whether the study, and the process under which the study was developed, each comply with Federal laws and regulations applicable to feasibility studies of water recycling and reuse projects; and
- (B) the project is technically and financially feasible and provides a Federal benefit in accordance with the reclamation laws.

(3) Submission to Congress

Not later than 180 days after the date of receipt of a feasibility study received under paragraph (1)(A), the Secretary 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—

- (A) the results of the Secretary's review of the study under paragraph (2), including a determination of whether the project is feasible;
- (B) any recommendations the Secretary may have concerning the plan or design of the project; and
- (C) any conditions the Secretary may require for construction of the project.

(4) Eligibility for funding

The non-Federal project sponsor of any project determined by the Secretary to be feasible under paragraph (3)(A) shall be eligible to apply to the Secretary for funding for the Federal share of the costs of planning, designing and constructing the project pursuant to subsection (f).

(f) Competitive grant program for the funding of water recycling and reuse projects**(1) Establishment**

The Secretary shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible under subsection (e)(3)(A) shall be eligible to apply for funding for the planning, design, and construction of the project, subject to subsection (g)(2).

(2) Priority

When funding projects under paragraph (1), the Secretary shall give funding priority to projects that meet one or more of the criteria listed in paragraph (3) and are located in an area that—

(A) has been identified by the United States Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4-year period before such funds are made available; or

(B) was designated as a disaster area by a State during the 4-year period before such funds are made available.

(3) Criteria

The project criteria referred to in paragraph (2) are the following:

- (A) Projects that are likely to provide a more reliable water supply for States and local governments.
- (B) Projects that are likely to increase the water management flexibility and reduce impacts on environmental resources from projects operated by Federal and State agencies.
- (C) Projects that are regional in nature.
- (D) Projects with multiple stakeholders.
- (E) Projects that provide multiple benefits, including water supply reliability, ecosystem benefits, groundwater management and enhancements, and water quality improvements.

(g) Authorization of appropriations

(1) There is authorized to be appropriated to the Secretary of the Interior an additional \$50,000,000 to remain available until expended.

(2) Projects can only receive funding if enacted appropriations legislation designates funding to them by name, after the Secretary recommends specific projects for funding pursuant to subsection (f) and transmits such recommendations to the appropriate committees of Congress.

(Pub. L. 102-575, title XVI, §1602, Oct. 30, 1992, 106 Stat. 4664; Pub. L. 106-566, title I, §104(a), Dec. 23, 2000, 114 Stat. 2819; Pub. L. 114-322, title III, §4009(c), Dec. 16, 2016, 130 Stat. 1868.)

REFERENCES IN TEXT

The Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388), referred to in subsec. (a), is act June 17, 1902, ch. 1093, 32 Stat. 388, 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.

Hereafter, referred to in subsec. (a), means hereafter in title XVI of Pub. L. 102-575, Oct. 30, 1992, 106 Stat. 4663, which enacted sections 390h to 390h-39 of this title.

The enactment of this Act, referred to in subsec. (e)(1)(C), probably means the date of enactment of Pub. L. 114-322, which added subsec. (e) and was approved Dec. 16, 2016.

AMENDMENTS

2016—Subsecs. (e) to (g). Pub. L. 114-322 added subsecs. (e) to (g).

2000—Subsec. (b). Pub. L. 106-566 inserted “, and the State of Hawaii” before period at end.

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109-70, §1, Sept. 21, 2005, 119 Stat. 2009, provided that: “This Act [enacting section 390h-20 of this title and transferring section 390h-17a of this title to section 390h-19 of this title] may be cited as the ‘Hawaii Water Resources Act of 2005’.”

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108-316, §1(a), Oct. 5, 2004, 118 Stat. 1202, provided that: “This section [enacting section 390h-17a of

this title] may be cited as the ‘Williamson County Water Recycling Act of 2004.’”

Pub. L. 108-233, §1, May 28, 2004, 118 Stat. 654, provided that: “This Act [enacting section 390h-18 of this title] may be cited as the ‘Irvine Basin Surface and Groundwater Improvement Act of 2004.’”

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-566, title I, §101, Dec. 23, 2000, 114 Stat. 2818, provided that: “This title [amending this section] may be cited as the ‘Hawaii Water Resources Act of 2000.’”

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105-321, §1(a), Oct. 30, 1998, 112 Stat. 3020, provided that: “This Act [enacting section 390h-16 of this title, amending section 564w-1 of Title 25, Indians, and enacting and amending provisions listed in a table of National Wildlife Refuges set out under section 668dd of Title 16, Conservation] may be cited as the ‘Oregon Public Lands Transfer and Protection Act of 1998.’”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-266, §1, Oct. 9, 1996, 110 Stat. 3290, provided that: “This Act [enacting sections 390h-12a to 390h-12p of this title and amending sections 390h-1 to 390h-3, 390h-9, and 390h-13 to 390h-15 of this title] may be cited as the ‘Reclamation Recycling and Water Conservation Act of 1996.’”

SHORT TITLE

Pub. L. 102-575, title XVI, §1601, Oct. 30, 1992, 106 Stat. 4663, provided that: “This title [enacting sections 390h to 390h-15 of this title] may be referred to as the ‘Reclamation Wastewater and Groundwater Study and Facilities Act.’”

§ 390h-1. Appraisal investigations

(a) Purposes; recommendations

The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Matters to be considered

Appraisal investigations undertaken by the Secretary or the non-Federal project sponsor pursuant to sections 390h to 390h-39 of this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, State and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) Consultation and cooperation

The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to sections 390h to 390h-39 of this title.

(d) Nonreimbursable costs

Costs of such appraisal investigations shall be nonreimbursable.

(Pub. L. 102-575, title XVI, §1603, Oct. 30, 1992, 106 Stat. 4664; Pub. L. 104-266, §3, Oct. 9, 1996, 110 Stat. 3295.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, 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.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-266 inserted “by the Secretary or the non-Federal project sponsor” after “undertaken” in introductory provisions.

§ 390h-2. Feasibility studies

(a) General authority; Federal and non-Federal cost shares

The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 390h-1 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) Federal share considered project costs; reimbursement

The Federal share of feasibility studies, including those described in sections 390h-4 and 390h-6 through 390h-8 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) Matters to be considered

In addition to the requirements of other Federal laws, feasibility studies conducted by the Secretary or the non-Federal project sponsor under sections 390h to 390h-39 of this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) at least two alternative measures or technologies available for water reclamation,