

Editorial Notes

REFERENCES IN TEXT

The Reclamation Projects Authorization and Adjustment Act of 1992, referred to in subsec. (e)(1), is Pub. L. 102-575, Oct. 30, 1992, 106 Stat. 4600, as amended. Provisions relating to the reclamation and reuse program are classified generally to section 390h et seq. of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 371 of Title 43 and Tables.

AMENDMENTS

2021—Subsec. (b). Pub. L. 117-58, § 50203(6), redesignated subsec. (i) as (b). Former subsec. (b) redesignated (c).

Pub. L. 117-58, § 50203(1), substituted “Establishment” for “In general” in heading.

Subsec. (c). Pub. L. 117-58, § 50203(6), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 117-58, § 50203(6), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 117-58, § 50203(2)(A), inserted “construction” before “funds”.

Subsec. (d)(2), (3). Pub. L. 117-58, § 50203(2)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which related to additional consideration regarding the location of a project.

Subsec. (e). Pub. L. 117-58, § 50203(6), redesignated subsec. (d) as (e).

Pub. L. 117-58, § 50203(3), struck out subsec. (e) which related to committee resolution procedure.

Subsec. (i). Pub. L. 117-58, § 50203(6), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (b).

Pub. L. 117-58, § 50203(4)(A), struck out “, the following definitions apply” before the semicolon in introductory provisions.

Subsec. (i)(1). Pub. L. 117-58, § 50203(4)(B), substituted “water, wastewater, or stormwater or by treating wastewater or stormwater for groundwater recharge, potable reuse, or other purposes” for “water or wastewater or by treating wastewater”.

Subsec. (j). Pub. L. 117-58, § 50203(6), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (b).

Pub. L. 117-58, § 50203(5), designated existing provisions as par. (1), inserted heading, substituted “\$25,000,000 for each of fiscal years 2022 through 2026, to” for “a total of \$75,000,000 for fiscal years 2002 through 2004. Such sums shall”, and added par. (2).

§ 1301. Sewer overflow and stormwater reuse municipal grants**(a) In general****(1) Grants to States**

The Administrator may make grants to States for the purpose of providing grants to a municipality or municipal entity for planning, design, and construction of—

(A) treatment works to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater;

(B) notification systems to inform the public of combined sewer or sanitary overflows that result in sewage being released into rivers and other waters; and

(C) any other measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water eligible for assistance under section 1383(c) of this title.

(2) Direct municipal grants

Subject to subsection (g), the Administrator may make a direct grant to a municipality or municipal entity for the purposes described in paragraph (1).

(b) Prioritization

In selecting from among municipalities applying for grants under subsection (a), a State or the Administrator shall give priority to an applicant that—

(1) is a municipality that is a financially distressed community under subsection (c);

(2) has implemented or is complying with an implementation schedule for the nine minimum controls specified in the CSO control policy referred to in section 1342(q)(1) of this title and has begun implementing a long-term municipal combined sewer overflow control plan or a separate sanitary sewer overflow control plan;

(3) is requesting a grant for a project that is on a State’s intended use plan pursuant to section 1386(c) of this title; or

(4) is an Alaska Native Village.

(c) Financially distressed community**(1) Definition**

In subsection (b), the term “financially distressed community” means a community that meets affordability criteria established by the State in which the community is located, if such criteria are developed after public review and comment.

(2) Consideration of impact on water and sewer rates

In determining if a community is a distressed community for the purposes of subsection (b), the State shall consider, among other factors, the extent to which the rate of growth of a community’s tax base has been historically slow such that implementing a plan described in subsection (b)(2) would result in a significant increase in any water or sewer rate charged by the community’s publicly owned wastewater treatment facility.

(3) Information to assist States

The Administrator may publish information to assist States in establishing affordability criteria under paragraph (1).

(d) Cost-sharing**(1) In general**

The Federal share of the cost of activities carried out using amounts from a grant made under subsection (a) shall be not less than 55 percent of the cost.

(2) Rural and financially distressed communities

To the maximum extent practicable, the Administrator shall work with States to prevent the non-Federal share requirements under this subsection from being passed on to rural communities and financially distressed communities (as those terms are defined in subsection (f)(2)(B)(i)).

(3) Types of non-Federal share

The applicable non-Federal share of the cost under this subsection may include, in any amount, public and private funds and in-kind services, and may include, notwithstanding section 1383(h) of this title, financial assistance, including loans, from a State water pollution control revolving fund.

(e) Administrative requirements

A project that receives assistance under this section shall be carried out subject to the same requirements as a project that receives assistance from a State water pollution control revolving fund under subchapter VI of this chapter, except to the extent that the Governor of the State in which the project is located determines that a requirement of subchapter VI of this chapter is inconsistent with the purposes of this section. For the purposes of this subsection, a Governor may not determine that the requirements of subchapter VI of this chapter relating to the application of section 1372 of this title are inconsistent with the purposes of this section.

(f) Authorization of appropriations**(1) In general**

There is authorized to be appropriated to carry out this section \$280,000,000 for each of fiscal years 2022 through 2026.

(2) Minimum allocations**(A) Green projects**

To the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 20 percent of the amount of the grants made to the State under subsection (a) in a fiscal year to carry out projects to intercept, transport, control, treat, or reuse municipal combined sewer overflows, sanitary sewer overflows, or stormwater through the use of green infrastructure, water and energy efficiency improvements, and other environmentally innovative activities.

(B) Rural or financially distressed community allocation**(i) Definitions**

In this subparagraph:

(I) Financially distressed community

The term “financially distressed community” has the meaning given the term in subsection (c)(1).

(II) Rural community

The term “rural community” means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

(ii) Allocation**(I) In general**

To the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 25 percent of the amount of the grants made to the State under subsection (a) in a fiscal year to carry out projects in rural communities or financially distressed communities for the purpose of planning, design, and construction of—

(aa) treatment works to intercept, transport, control, treat, or reuse municipal sewer overflows, sanitary sewer overflows, or stormwater; or

(bb) any other measures to manage, reduce, treat, or recapture stormwater

or subsurface drainage water eligible for assistance under section 603(c).

(II) Rural communities

Of the funds allocated under subclause (I) for the purposes described in that subclause, to the extent there are sufficient eligible project applications, the Administrator shall ensure that a State uses not less than 60 percent to carry out projects in rural communities.

(g) Allocation of funds**(1) Fiscal year 2019**

Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2019 for making grants to municipalities and municipal entities under subsection (a)(2) in accordance with the criteria set forth in subsection (b).

(2) Fiscal year 2020 and thereafter

Subject to subsection (h), the Administrator shall use the amounts appropriated to carry out this section for fiscal year 2020 and each fiscal year thereafter for making grants to States under subsection (a)(1) in accordance with a formula to be established by the Administrator, after providing notice and an opportunity for public comment, that allocates to each State a proportional share of such amounts based on the total needs of the State for municipal combined sewer overflow controls, sanitary sewer overflow controls, and stormwater identified in the most recent detailed estimate and comprehensive study submitted pursuant to section 1375 of this title and any other information the Administrator considers appropriate.

(h) Administrative expenses

Of the amounts appropriated to carry out this section for each fiscal year—

(1) the Administrator may retain an amount not to exceed 1 percent for the reasonable and necessary costs of administering this section; and

(2) the Administrator, or a State, may retain an amount not to exceed 4 percent of any grant made to a municipality or municipal entity under subsection (a), for the reasonable and necessary costs of administering the grant.

(i) Reports**(1) Periodic reports****(A) In general**

Not later than December 31, 2003, and periodically thereafter, the Administrator shall transmit to Congress a report containing—

(i) recommended funding levels for grants under this section; and

(ii) a description of the extent to which States pass costs associated with the non-Federal share requirements under subsection (d) to local communities, with a focus on rural communities and financially distressed communities (as those terms are defined in subsection (f)(2)(B)(i)).

(B) Requirement

The funding levels recommended under subparagraph (A)(i) shall be sufficient to en-

sure the continued expeditious implementation of municipal combined sewer overflow and sanitary sewer overflow controls nationwide.

(2) Use of funds

Not later than 2 years after November 15, 2021, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the implementation of the grant program under this section, which shall include a description of the grant recipients, sources of funds for non-Federal share requirements under subsection (d), and grant amounts made available under the program.

(June 30, 1948, ch. 758, title II, §221, as added Pub. L. 106-554, §1(a)(4) [div. B, title I, §112(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-225; amended Pub. L. 115-270, title IV, §4106, Oct. 23, 2018, 132 Stat. 3875; Pub. L. 117-58, div. E, title II, §50204, Nov. 15, 2021, 135 Stat. 1160.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(1)(B), (C). Pub. L. 117-58, §50204(1), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (d). Pub. L. 117-58, §50204(2), designated first sentence as par. (1) and inserted heading, designated second sentence as par. (3), inserted heading, and substituted “The applicable non-Federal share of the cost under this subsection” for “The non-Federal share of the cost”, and added par. (2).

Subsec. (f)(1). Pub. L. 117-58, §50204(3)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “There is authorized to be appropriated to carry out this section \$225,000,000 for each of fiscal years 2019 through 2020.”

Subsec. (f)(2). Pub. L. 117-58, §50204(3)(B), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (i). Pub. L. 117-58, §50204(4)(B), (D), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (i)(1). Pub. L. 117-58, §50204(A)-(C), designated first and second sentences as subpars. (A) and (B), respectively, and inserted headings; in subpar. (A), substituted “containing—” for “containing”, redesignated remaining provisions as cl. (i), and added cl. (ii); and, in subpar. (B), substituted “The funding levels recommended under subparagraph (A)(i)” for “The recommended funding levels”.

2018—Pub. L. 115-270, §4106(1), substituted “Sewer overflow and stormwater reuse municipal grants” for “Sewer overflow control grants” in section catchline.

Subsec. (a). Pub. L. 115-270, §4106(2), amended subsec. (a) generally. Prior to amendment, subsec. (a) related to purposes for making sewer overflow control grants to States, municipalities, and municipal entities.

Subsec. (e). Pub. L. 115-270, §4106(3), amended subsec. (e) generally. Prior to amendment, text read as follows: “If a project receives grant assistance under subsection (a) and loan assistance from a State water pollution control revolving fund and the loan assistance is for 15 percent or more of the cost of the project, the project may be administered in accordance with State water pollution control revolving fund administrative reporting requirements for the purposes of streamlining such requirements.”

Subsec. (f). Pub. L. 115-270, §4106(4), amended subsec. (f) generally. Prior to amendment, text read as follows: “There is authorized to be appropriated to carry out

this section \$750,000,000 for each of fiscal years 2002 and 2003. Such sums shall remain available until expended.”

Subsec. (g). Pub. L. 115-270, §4106(5), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to allocation of funds.

Statutory Notes and Related Subsidiaries

INFORMATION ON CSOS AND SSOS

Pub. L. 106-554, §1(a)(4) [div. B, title I, §112(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-227, provided that:

“(1) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act [Dec. 21, 2000], the Administrator of the Environmental Protection Agency shall transmit to Congress a report summarizing—

“(A) the extent of the human health and environmental impacts caused by municipal combined sewer overflows and sanitary sewer overflows, including the location of discharges causing such impacts, the volume of pollutants discharged, and the constituents discharged;

“(B) the resources spent by municipalities to address these impacts; and

“(C) an evaluation of the technologies used by municipalities to address these impacts.

“(2) TECHNOLOGY CLEARINGHOUSE.—After transmitting a report under paragraph (1), the Administrator shall maintain a clearinghouse of cost-effective and efficient technologies for addressing human health and environmental impacts due to municipal combined sewer overflows and sanitary sewer overflows.”

§ 1302. Wastewater efficiency grant pilot program

(a) Establishment

Subject to the availability of appropriations, the Administrator shall establish a wastewater efficiency grant pilot program (referred to in this section as the “pilot program”) to award grants to owners or operators of publicly owned treatment works to carry out projects that create or improve waste-to-energy systems.

(b) Selection

(1) Applications

To be eligible to receive a grant under the pilot program, an owner or operator of a treatment works shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require.

(2) Number of recipients

The Administrator shall select not more than 15 recipients of grants under the pilot program from applications submitted under paragraph (1).

(c) Use of funds

(1) In general

Subject to paragraph (2), a recipient of a grant under the pilot program may use grant funds for—

- (A) sludge collection;
- (B) installation of anaerobic digesters;
- (C) methane capture;
- (D) methane transfer;
- (E) facility upgrades and retrofits necessary to create or improve waste-to-energy systems; and
- (F) other new and emerging, but proven, technologies that transform waste to energy.

(2) Limitation

A grant to a recipient under the pilot program shall be not more than \$4,000,000.