

limited recipient which benefits that qualified or limited recipient in proportion to that landholding.

(7) The term “limited recipient” means any legal entity established under State or Federal law benefiting more than twenty-five natural persons.

(8) The term “project” means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law, 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 of Reclamation for the reclamation of lands.

(9) The term “qualified recipient” means an individual who is a citizen of the United States or a resident alien thereof or any legal entity established under State or Federal law which benefits twenty-five natural persons or less.

(10) The term “recordable contract” means a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the ownership limitations of Federal reclamation law including this subchapter.

(11) The term “Secretary” means the Secretary of the Interior.

(Pub. L. 97-293, title II, §202, Oct. 12, 1982, 96 Stat. 1263; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095.)

#### Editorial Notes

##### REFERENCES IN TEXT

Federal reclamation law, referred to in pars. (1), (3)(A), (8), and (10), is defined in section 390aa of this title.

##### AMENDMENTS

1986—Par. (4). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

#### § 390cc. New or amended contracts

##### (a) Generally

The provisions of this subchapter shall be applicable to any district which—

- (1) enters into a contract with the Secretary subsequent to October 12, 1982;
- (2) enters into any amendment of its contract with the Secretary subsequent to October 12, 1982, which enables the district to receive supplemental or additional benefits; or
- (3) which amends its contract for the purpose of conforming to the provisions of this subchapter.

##### (b) Amendment of existing contracts

Any district which has an existing contract with the Secretary as of October 12, 1982, which does not enter into an amendment of such contract as specified in subsection (a) shall be subject to Federal reclamation law in effect immediately prior to October 12, 1982, as that law is amended or supplemented by sections 209 through 230 of this title [43 U.S.C. 390ii—390zz-1,

373a, 422e, 425b, 485h]. Within a district that does not enter into an amendment of its contract with the Secretary within four and one-half years of October 12, 1982, irrigation water may be delivered to lands leased in excess of a landholding of one hundred and sixty acres only if full cost, as defined in section 390bb(3)(A) of this title, is paid for such water as is assignable to those lands leased in excess of such landholding of one hundred and sixty acres: *Provided*, That the interest rate used in computing full cost under this subsection shall be the same as provided in section 390ee(a)(3) of this title.

##### (c) Election by qualified or limited recipients in absence of amendment to contract

In the absence of an amendment to a contract, as specified in subsection (a), a qualified recipient or limited recipient may elect to be subject to the provisions of this subchapter by executing an irrevocable election in a form approved by the Secretary to comply with this subchapter. The district shall thereupon deliver irrigation water to and collect from such recipient, for the credit of the United States, the additional charges required by this subchapter and assignable to the recipient making the election.

##### (d) Consent of non-Federal party

Amendments to contracts which are not required by the provisions of this subchapter shall not be made without the consent of the non-Federal party.

(Pub. L. 97-293, title II, §203, Oct. 12, 1982, 96 Stat. 1264.)

#### Editorial Notes

##### REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (b), is defined in section 390aa of this title.

Sections 209 through 230 of this title, referred to in subsec. (b), are sections 209 through 230 of title II of Pub. L. 97-293, which enacted sections 390ii through 390zz-1 of this title, amended sections 373a, 422e, 425b, and 485h of this title, and repealed section 383 of Title 25, Indians.

#### § 390dd. Limitation on ownership

Except as provided in section 390ii of this title, irrigation water may not be delivered to—

- (1) a qualified recipient for use in the irrigation of lands owned by such qualified recipient in excess of nine hundred and sixty acres of class I lands or the equivalent thereof; or
- (2) a limited recipient for the use in the irrigation of lands owned by such limited recipient in excess of six hundred and forty acres of class I lands or the equivalent thereof;

whether situated in one or more districts.

(Pub. L. 97-293, title II, §204, Oct. 12, 1982, 96 Stat. 1265.)

#### § 390ee. Pricing

##### (a) Delivery of irrigation water at full cost

Notwithstanding any other provision of law, any contract with a district entered into by the Secretary as specified in section 390cc of this title, shall provide for the delivery of irrigation water at full cost as defined in section 390bb(3) of this title to:

(1) a landholding in excess of nine hundred and sixty acres of class I lands or the equivalent thereof for a qualified recipient,<sup>1</sup>

(2) a landholding in excess of three hundred and twenty acres of class I land or the equivalent thereof for a limited recipient receiving irrigation water on or before October 1, 1981; and

(3) the entire landholding of a limited recipient not receiving irrigation water on or before October 1, 1981: *Provided*, That the interest rate used in computing full cost under this paragraph shall be determined by the Secretary of the Treasury on the basis of the arithmetic average of—

(A) the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for redemption for fifteen years from the date of issuance; and

(B) the weighted average of market yields on all interest-bearing, marketable issues sold by the Treasury

during the fiscal year preceding the fiscal year in which the expenditures are made, or October 12, 1982, for expenditures made before October 12, 1982.

**(b) Delivery of irrigation water at prior terms and conditions**

Any contract with a district entered into by the Secretary as specified in section 390cc of this title, shall provide for the delivery of irrigation water to lands not in excess of the landholdings described in subsection (a) upon terms and conditions related to pricing established by the Secretary pursuant to Federal reclamation law in effect immediately prior to October 12, 1982, or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment. However, the portion of any price established under this subsection which relates to operation and maintenance charges shall be established pursuant to section 390hh of this title.

**(c) Delivery of irrigation water to lands under recordable contracts**

Notwithstanding any extension of time of any recordable contract as provided in section 390ii(e) of this title, lands under recordable contract shall be eligible to receive irrigation water at less than full cost for a period not to exceed ten years from the date such recordable contract was executed by the Secretary in the case of contracts existing prior to October 12, 1982, or five years from the date such recordable contract was executed by the Secretary in the case of contracts entered into subsequent to October 12, 1982, or the time specified in section 390rr of this title for lands described in that section: *Provided*, That in no case shall the right to receive water at less than full cost under this subsection terminate sooner than eighteen months after the date on which the Secretary again commences the processing or the approval of the disposition of such lands.

(Pub. L. 97-293, title II, §205, Oct. 12, 1982, 96 Stat. 1265.)

<sup>1</sup> So in original. The comma probably should be a semicolon.

**Editorial Notes**

REFERENCES IN TEXT

Federal reclamation law, referred to in subsec. (b), is defined in section 390aa of this title.

**§ 390ff. Certification of compliance**

As a condition to the receipt of irrigation water for lands in a district which has a contract as specified in section 390cc of this title, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this subchapter including a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

(Pub. L. 97-293, title II, §206, Oct. 12, 1982, 96 Stat. 1266.)

**§ 390gg. Equivalency**

Upon the request of any district, the ownership and pricing limitations imposed by this subchapter shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

(Pub. L. 97-293, title II, §207, Oct. 12, 1982, 96 Stat. 1266.)

**§ 390hh. Operation and maintenance charges**

**(a) Price adequate to recover charges**

The price of irrigation water delivered by the Secretary pursuant to a contract or an amendment to a contract with a district, as specified in section 390cc of this title, shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.

**(b) Modification of price**

Whenever a district enters into a contract or requests that its contract be amended as specified in section 390cc of this title, and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of irrigation water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

**(c) Districts not operating from Federal funds**

This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

(Pub. L. 97-293, title II, §208, Oct. 12, 1982, 96 Stat. 1267.)