

§ 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.

(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

¹ See References in Text note below.