

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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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.

(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 re-

port 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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

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 sections 390h-16 and 2607 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 re-

charge, 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.)

Editorial Notes

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