

(A) an Act of Congress enacted before November 15, 2021, authorizes construction of the project;

(B) Congress has approved funding for construction of the project in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) before November 15, 2021, except for any project for which—

(i) Congress did not approve the recommendation of the Secretary for funding under subsection (h)(2) of that section for at least 1 fiscal year before November 15, 2021; or

(ii) State funding for the project was rescinded by the State before November 15, 2021; or

(C)(i) Congress has authorized or approved funding for a feasibility study for the project in accordance with clause (i) or (ii) of paragraph (1)(A) (except that projects described in clauses (i) and (ii) of subparagraph (B) shall not be eligible); and

(ii) on completion of the feasibility study for the project, the Secretary—

(I) finds the project to be technically and financially feasible in accordance with the reclamation laws;

(II) determines that sufficient non-Federal funding is available for the non-Federal cost share of the project; and

(III)(aa) finds the project to be in the public interest; and

(bb) recommends the project for construction.

(b) Cost-sharing requirement

(1) In general

The Federal share—

(A) for a project authorized by an Act of Congress shall be determined in accordance with that Act;

(B) for a project approved by Congress in accordance with section 4007 of the Water Infrastructure Improvements for the Nation Act (43 U.S.C. 390b note; Public Law 114–322) (including construction resulting from a feasibility study authorized under that Act) shall be as provided in that Act; and

(C) for a project not described in subparagraph (A) or (B)—

(i) in the case of a federally owned project, shall not exceed 50 percent of the total cost of the project; and

(ii) in the case of a non-Federal project, shall not exceed 25 percent of the total cost of the project.

(2) Federal benefits

Before funding a project under this section, the Secretary shall determine that, in return for the Federal investment in the project, at least a proportionate share of the benefits are Federal benefits.

(3) Reimbursability

The reimbursability of Federal funding of projects under this section shall be in accordance with the reclamation laws.

(c) Environmental laws

In providing funding for a project under this section, the Secretary shall comply with all ap-

plicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(Pub. L. 117–58, div. D, title IX, § 40902, Nov. 15, 2021, 135 Stat. 1118.)

Editorial Notes

REFERENCES IN TEXT

The Water Infrastructure Improvements for the Nation Act, referred to in subsec. (b)(1)(B), is Pub. L. 114–322, Dec. 16, 2016, 130 Stat. 1628, also known as the WIIN Act. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of Title 33, Navigation and Navigable Waters, and Tables.

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

Statutory Notes and Related Subsidiaries

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

§ 3203. Small water storage and groundwater storage projects

(a) Establishment of a competitive grant program for small water storage and groundwater storage projects

The Secretary shall establish a competitive grant program, under which the non-Federal project sponsor of any project in a Reclamation State, including the State of Alaska or Hawaii, determined by the Secretary to be feasible under subsection (b)(2)(B) shall be eligible to apply for funding for the planning, design, and construction of the project.

(b) Eligibility and selection

(1) Submission to the Secretary

(A) In general

A non-Federal project sponsor described in subsection (a) may submit to the Secretary a proposal for a project eligible to receive a grant under this section in the form of a completed feasibility study.

(B) Eligible projects

A project shall be considered eligible for consideration for a grant under this section if the project—

(i) has water storage capacity of not less than 2,000 acre-feet and not more than 30,000 acre-feet; and

(ii)(I) increases surface water or groundwater storage; or

(II) conveys water, directly or indirectly, to or from surface water or groundwater storage.

(C) Guidelines

Not later than 60 days after November 15, 2021, the Secretary shall issue guidelines for

feasibility studies for small storage 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 determining whether—

(A) the feasibility study, and the process under which the study was developed, each comply with Federal laws (including regulations) applicable to feasibility studies of small storage projects;

(B) the project is technically and financially feasible, in accordance with—

- (i) the guidelines developed under paragraph (1)(C); and
- (ii) the reclamation laws; and

(C) the project provides a Federal benefit, as determined by the Secretary.

(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 review of the study by the Secretary under paragraph (2), including a determination of whether the project is feasible and provides a Federal benefit;

(B) any recommendations that 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

(A) In general

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 a grant to cover the Federal share of the costs of planning, designing, and constructing the project pursuant to subsection (c).

(B) Required determination

Prior to awarding grants to a small storage project, the Secretary shall determine whether there is sufficient non-Federal funding available to complete the project.

(5) Priority

In awarding grants to projects under this section, the Secretary shall give priority to projects that meet 1 or more of the following criteria:

(A) Projects that are likely to provide a more reliable water supply for States, Indian Tribes, and local governments, including subdivisions of those entities.

(B) Projects that are likely to increase 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.

(c) Ceiling on Federal share

The Federal share of the costs of each of the individual projects selected under this section shall not exceed the lesser of—

- (1) 25 percent of the total project cost; or
- (2) \$30,000,000.

(d) Environmental laws

In providing funding for a grant for a project under this section, the Secretary shall comply with all applicable environmental laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) Termination of authority

The authority to carry out this section terminates on the date that is 5 years after November 15, 2021.

(Pub. L. 117-58, div. D, title IX, § 40903, Nov. 15, 2021, 135 Stat. 1119.)

Editorial Notes

REFERENCES IN TEXT

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

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§ 3204. Critical maintenance and repair

(a) Critical failure at a reserved or transferred work

(1) In general

A reserved or transferred work shall only be eligible for funding under section 3201(2)(A) of this title if—

(A) construction of the reserved or transferred work began on or before January 1, 1915; and

(B) a unit of the reserved or transferred work suffered a critical failure in Bureau of Reclamation infrastructure during the 2-year period ending on November 15, 2021, that resulted in the failure to deliver water to project beneficiaries.

(2) Use of funds

Rehabilitation, repair, and replacement activities for a transferred or reserved work using amounts made available under section 3201(2)(A) of this title may be used for the entire transferred or reserved work, regardless of whether the critical failure was limited to a single project of the overall work.