

**TITLE 43 - PUBLIC LANDS**  
**CHAPTER 12 - RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT**  
**SUBCHAPTER I - GENERAL PROVISIONS**

**§ 371. Definitions**

When used in sections 371, 376, 377, 412, 417, 433, 462, 466, 478, 493, 494, 500, 501, and 526 of this title—

- (a) The word “Secretary” means the Secretary of the Interior.
- (b) The words “reclamation law” mean the Act of June 17, 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.
- (c) The words “reclamation fund” mean the fund provided by the reclamation law.
- (d) The word “project” means a Federal irrigation project authorized by the reclamation law.
- (e) The words “division of a project” mean a substantial irrigable area of a project designated as a division by order of the Secretary.

(Dec. 5, 1924, ch. 4, § 4, subsec. A, 43 Stat. 701.)

**References in Text**

Act June 17, 1902, referred to in par. (b), is popularly known as the Reclamation Act or National Irrigation Act of 1902, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

**Short Title of 1992 Amendment**

Pub. L. 102–575, § 1, Oct. 30, 1992, 106 Stat. 4600, provided that: “This Act [enacting sections 390h to 390h–15 of this title and sections 460l–31 to 460l–34, 470h–4, 470h–5, and 470x to 470x–6 of Title 16, Conservation, amending sections 390g–2, 390g–3, 390g–5, 1521, and 1524 of this title, sections 460l–13 to 460l–15, 460l–18, 466, 470–1, 470a, 470b, 470c, 470h, 470h–2, 470h–3, 470i, 470s, 470t, 470w, and 470w–3 of Title 16, and section 390 of Title 25, Indians, enacting provisions set out as notes under this section and sections 390h, 620k, 1521, and 1524 of this title, sections 460l–31, 470, and 470a of Title 16, and section 390 of Title 25, and amending provisions set out as a note under section 461 of Title 16] may be cited as the ‘Reclamation Projects Authorization and Adjustment Act of 1992.’”

**Short Title of 1984 Amendments**

For short title of Pub. L. 98–434 as the “High Plains States Groundwater Demonstration Program Act of 1983”, see section 1 of Pub. L. 98–434, set out as a Short Title note under section 390g of this title.

For short title of Pub. L. 98–404 as “The Reclamation Safety of Dams Act Amendments of 1984”, see section 1 of Pub. L. 98–404, set out as a note under section 506 of this title.

**Short Title of 1978 Amendment**

For short title of Pub. L. 95–578 as the “Reclamation Safety of Dams Act of 1978”, see section 1 of Pub. L. 95–578, set out as a note under section 506 of this title.

**Short Title of 1958 Amendment**

For short title of title III of Pub. L. 85–500, which enacted section 390b of this title, as the “Water Supply Act of 1958”, see section 302 of Pub. L. 85–500, set out as a Short Title note under section 390b of this title.

**Short Title**

Act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which enacted sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 476, 491, and 498 of this title, is popularly known as the “Reclamation Act” or “National Irrigation Act of 1902”.

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Act Dec. 5, 1924, ch. 4, § 4, 43 Stat. 701, as amended, which enacted this section and sections 376, 377, 412, 417, 433, 438, 462, 463, 466, 467, 473, 474, 478, 493, 494, 500, 501, and 526 of this title, is popularly known as the “Fact Finders’ Act”.

## Western Water Policy Review

Pub. L. 104–46, title V, § 502, Nov. 13, 1995, 109 Stat. 419, provided that: “Notwithstanding the provisions of any other law, the report referred to in title 30 [XXX] of Public Law 102–575 [set out below] shall be submitted within five years from the date of enactment of that Act [Oct. 30, 1992].”

Pub. L. 102–575, title XXX, Oct. 30, 1992, 106 Stat. 4693, as amended by Pub. L. 103–437, § 16(a)(2), Nov. 2, 1994, 108 Stat. 4594, provided that:

“SEC. 3001. SHORT TITLE.

“This title may be cited as the ‘Western Water Policy Review Act of 1992’.

“SEC. 3002. CONGRESSIONAL FINDINGS.

“The Congress finds that—

“(1) the Nation needs an adequate water supply for all states [States] at a reasonable cost;

“(2) the demands on the Nation’s finite water supply are increasing;

“(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

“(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

“(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation’s water policy;

“(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

“(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

“(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States, except to the extent such jurisdiction has been preempted in whole or in part by the Federal Government, including, but not limited to, express or implied Federal reserved water rights either for itself or for the benefit of Indian Tribes, and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

“(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

“(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

“(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey [now United States Geological Survey], and the Secretary of the Army, given his responsibilities for flood control, water supply, hydroelectric power, recreation, and fish and wildlife enhancement, have the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

“SEC. 3003. PRESIDENTIAL REVIEW.

“(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources, whether surface or subsurface, and to submit a report on the President’s findings, together with recommendations, if any, to the Committees on Energy and Natural Resources, Environment and Public Works and Appropriations of the Senate and the Committees on Natural Resources, Public Works and Transportation [now Transportation and Infrastructure], Merchant Marine and Fisheries and Appropriations of the House of Representatives.

“(b) Such report shall be submitted within three years from the date of enactment of this Act [Oct. 30, 1992].

“(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3004 of this title, and may request the Secretary of the Interior and the Secretary

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of the Army or other Federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

“(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

“SEC. 3004. THE ADVISORY COMMISSION.

“(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the ‘Commission’) to assist in the preparation and review of the report required under this title.

“(b) The Commission shall be composed of eighteen members as follows:

“(1) Ten members appointed by the President including:

“(A) the Secretary of the Interior or his designee;

“(B) the Secretary of the Army or his designee;

“(C) at least one representative chosen from a list submitted by the Western Governors Association; and

“(D) at least one representative chosen from a list submitted by Tribal governments located in the Western States.

“(2) In addition to the ten members appointed by the President, twelve Members from the United States Congress shall serve as ex officio members of the Commission. For the United States Senate: the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources, and Appropriations, and the Subcommittee of the Committee on Energy and Natural Resources which has jurisdiction over the Bureau of Reclamation. For the United States House of Representatives: the Chairman [Chairmen] and Ranking Minority Members of the Committees on Natural Resources, Public Works and Transportation [now Transportation and Infrastructure], and Appropriations.

“(c) The President shall appoint one member of the Commission to serve as Chairman.

“(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

“(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

“SEC. 3005. DUTIES OF THE COMMISSION.

“The Commission shall—

“(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

“(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

“(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

“(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

“(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law and the Secretary of the Army under water resources law;

“(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

“(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation, the Department of the Army, and

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those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

“SEC. 3006. REPRESENTATIVES.

“(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

“(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

“SEC. 3007. POWERS OF THE COMMISSION.

“(a) The Commission may—

“(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

“(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

“(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission’s functions as the Commission determines can best be carried out in that manner; and

“(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

“(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

“(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for level II of the Executive Schedule.

“(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel cannot be obtained from the Secretary of the Interior or by detail from other Federal agencies. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

“(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109 (b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

“(d) The Secretary of the Interior and the Secretary of the Army shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

“SEC. 3008. POWERS AND DUTIES OF THE CHAIRMAN.

“(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3007 (a).

“(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

“SEC. 3009. OTHER FEDERAL AGENCIES.

“(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

“(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

“(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3007 (a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

“(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

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“(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

“SEC. 3010. APPROPRIATIONS.

“There are hereby authorized to be appropriated not to exceed \$10,000,000 to carry out the purposes of sections 3001 through 3009 of this title.”

[References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.]

[Committee on Merchant Marine and Fisheries of House of Representatives abolished and its jurisdiction transferred by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995. For treatment of references to Committee on Merchant Marine and Fisheries, see section 1(b)(3) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.]