

promulgated pursuant to this chapter shall be developed by the Secretary with the participation of the affected Indian tribes.

(Pub. L. 103-177, title III, § 301, Dec. 3, 1993, 107 Stat. 2022.)

§ 3742. Trust responsibility

Nothing in this chapter shall be construed to diminish or expand the trust responsibility of the United States toward Indian trust lands or natural resources, or any legal obligation or remedy resulting therefrom.

(Pub. L. 103-177, title III, § 302, Dec. 3, 1993, 107 Stat. 2022.)

§ 3743. Severability

If any provision of this chapter, or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this chapter shall not be affected thereby.

(Pub. L. 103-177, title III, § 303, Dec. 3, 1993, 107 Stat. 2022.)

§ 3744. Federal, State and local authority

(a) Disclaimer

Nothing in this chapter shall be construed to supersede or limit the authority of Federal, State or local agencies otherwise authorized by law to provide services to Indians.

(b) Duplication of services

The Secretary shall work with all appropriate Federal departments and agencies to avoid duplication of programs and services currently available to Indian tribes and landowners from other sources.

(Pub. L. 103-177, title III, § 304, Dec. 3, 1993, 107 Stat. 2022.)

§ 3745. Authorization of appropriations

(a) General authorization

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this chapter.

(b) Funding source

The activities required under subchapter II may only be funded from appropriations made pursuant to this chapter. To the greatest extent possible, such activities shall be coordinated with activities funded from other sources.

(Pub. L. 103-177, title III, § 305, Dec. 3, 1993, 107 Stat. 2023.)

§ 3746. Tribal immunity

Nothing in this chapter shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.

(Pub. L. 103-177, title III, § 306, as added Pub. L. 103-435, § 12(b), Nov. 2, 1994, 108 Stat. 4572.)

CHAPTER 40—INDIAN DAMS SAFETY

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§ 3801. Findings

The Congress finds that—

(1) the Secretary of the Interior has identified 53 dams on Indian lands that present a threat to human life in the event of a failure;

(2) because of inadequate attention in the past to problems stemming from structural deficiencies and regular maintenance requirements for dams operated by the Bureau of Indian Affairs, unsafe Bureau dams continue to pose an imminent threat to people and property;

(3) many Bureau dams have maintenance deficiencies regardless of their current safety condition classification and the deficiencies must be corrected to avoid future threats to human life and property;

(4) safe working dams on Indian lands are necessary to supply irrigation water, to provide flood control, to provide water for municipal, industrial, domestic, livestock, and recreation uses, and for fish and wildlife habitats; and

(5) it is necessary to institute a regular dam maintenance and repair program, utilizing the expertise in the Bureau, Indian tribes, and other Federal agencies.

(Pub. L. 103-302, § 2, Aug. 23, 1994, 108 Stat. 1560.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 103-302, § 1, Aug. 23, 1994, 108 Stat. 1560, provided that: "This Act [enacting this chapter] may be cited as the 'Indian Dams Safety Act of 1994'."

§ 3802. Definitions

As used in this chapter:

(1) The term "Bureau" means the Bureau of Indian Affairs.

(2) The term "dam" has the same meaning given such term by section 467 of title 33.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians.

(Pub. L. 103-302, § 3, Aug. 23, 1994, 108 Stat. 1560; Pub. L. 104-303, title II, § 215(d), Oct. 12, 1996, 110 Stat. 3694.)

Editorial Notes

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§ 1601 et seq.)

of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1996—Par. (2). Pub. L. 104-303 made technical amendment to reference in original act which appears in text as reference to section 467 of title 33.

§ 3803. Dam Safety Maintenance and Repair Program

(a) Establishment

The Secretary shall establish a dam safety maintenance and repair program within the Bureau to ensure maintenance and monitoring of the condition of each dam identified pursuant to subsection (e) necessary to maintain the dam in a satisfactory condition on a long-term basis.

(b) Transfer of existing functions and personnel

All functions performed before August 23, 1994, pursuant to the Dam Safety Program established by the Secretary of the Interior by order dated February 28, 1980, and all Bureau of Indian Affairs personnel assigned to such program as of August 23, 1994, are hereby transferred to the Dam Safety Maintenance and Repair Program. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Dam Safety Program is deemed to be a reference to the Dam Safety Maintenance and Repair Program.

(c) Rehabilitation

Under the Dam Safety Maintenance and Repair Program, the Secretary shall perform such rehabilitation work as is necessary to bring the dams identified pursuant to subsection (e) to a satisfactory condition. In addition, each dam located on Indian lands shall be regularly maintained pursuant to the Dam Safety Maintenance and Repair Program established pursuant to subsection (a).

(d) Maintenance action plan

The Secretary shall develop a maintenance action plan, which shall include a prioritization of actions to be taken, for those dams with a risk hazard rating of high or significant as identified pursuant to subsection (e).

(e) Identification of dams

(1) Development of list

The Secretary shall develop a comprehensive list of dams located on Indian lands that describes the dam safety condition classification of each dam, as specified in paragraph (2), the risk hazard classification of each dam, as specified in paragraph (3), and the conditions resulting from maintenance deficiencies.

(2) Dam safety condition classifications

The dam safety condition classification referred to in paragraph (1) is one of the following classifications:

(A) Satisfactory

No existing or potential dam safety deficiencies are recognized. Safe performance is expected under all anticipated conditions.

(B) Fair

No existing dam safety deficiencies are recognized for normal loading conditions. In-

frequent hydrologic or seismic events would probably result in a dam safety deficiency.

(C) Conditionally poor

A potential dam safety deficiency is recognized for unusual loading conditions that may realistically occur during the expected life of the structure.

(D) Poor

A potential dam safety deficiency is clearly recognized for normal loading conditions. Immediate actions to resolve the deficiency are recommended; reservoir restrictions may be necessary until resolution of the problem.

(E) Unsatisfactory

A dam safety deficiency exists for normal loading conditions. Immediate remedial action is required for resolution of the problem.

(3) Risk hazard classification

The risk hazard classification referred to in paragraph (1) is one of the following classifications:

(A) High

Six or more lives would be at risk or extensive property damage could occur if the dam failed.

(B) Significant

Between one and six lives would be at risk or significant property damage could occur if the dam failed.

(C) Low

No lives would be at risk and limited property damage would occur if the dam failed.

(f) Limitation on program authorization

Work authorized by this chapter shall be for the purpose of dam safety maintenance and structural repair. The Secretary may authorize, upon request of an Indian tribe, up to 20 percent of the cost of repairs to be used to provide additional conservation storage capacity or developing benefits beyond those provided by the original dams and reservoirs. This chapter is not intended to preclude development of increased storage or benefits under any other authority or to preclude measures to protect fish and wildlife.

(g) Technical assistance

To carry out the purposes of this chapter, the Secretary may obtain technical assistance on a nonreimbursable basis from other departments and agencies. Notwithstanding any such technical assistance, the Dam Safety Maintenance and Repair Program established under subsection (a) shall be under the direction and control of the Bureau.

(h) Contract authority

In addition to any other authority established by law, the Secretary is authorized to contract with Indian tribes under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ to carry out the Dam Safety

¹ See References in Text note below.