

NATIONAL DAM SAFETY PROGRAM ACT

[Public Law 92-367]

[As Amended Through P.L. 117-286, Enacted December 27, 2022]

【Currency: This publication is a compilation of the text of Public Law 92-367. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To authorize the Secretary of the Army to undertake a national program of inspection of dams.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Dam Safety Program Act”.

【33 U.S.C. 467 nt】

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) BOARD.—The term “Board” means a National Dam Safety Review Board established under section 8(f).

(3) DAM.—The term “dam”—

(A) means any artificial barrier that has the ability to impound water, wastewater, or any liquid-borne material, for the purpose of storage or control of water, that—

(i) is 25 feet or more in height from—

(I) the natural bed of the stream channel or watercourse measured at the downstream toe of the barrier; or

(II) if the barrier is not across a stream channel or watercourse, from the lowest elevation of the outside limit of the barrier;

to the maximum water storage elevation; or

(ii) has an impounding capacity for maximum storage elevation of 50 acre-feet or more; but

(B) does not include—

(i) a levee; or

- (ii) a barrier described in subparagraph (A) that—
 - (I) is 6 feet or less in height regardless of storage capacity; or
 - (II) has a storage capacity at the maximum water storage elevation that is 15 acre-feet or less regardless of height;

unless the barrier, because of the location of the barrier or another physical characteristic of the barrier, is likely to pose a significant threat to human life or property if the barrier fails (as determined by the Administrator).

(4) **ELIGIBLE HIGH HAZARD POTENTIAL DAM.**—

(A) **IN GENERAL.**—The term “eligible high hazard potential dam” means a non-Federal dam that—

- (i) is located in a State with a State dam safety program;
- (ii) is classified as “high hazard potential” by the State dam safety agency in the State in which the dam is located;
- (iii) has an emergency action plan that—
 - (I) is approved by the relevant State dam safety agency; or
 - (II) is in conformance with State law and pending approval by the relevant State dam safety agency;
- (iv) fails to meet minimum dam safety standards of the State in which the dam is located, as determined by the State; and
- (v) poses an unacceptable risk to the public, as determined by the Administrator, in consultation with the Board.

(B) **EXCLUSION.**—The term “eligible high hazard potential dam” does not include—

- (i) a licensed hydroelectric dam under a hydro-power project with an authorized installed capacity of greater than 1.5 megawatts; or
- (ii) a dam built under the authority of the Secretary of Agriculture.

(5) **FEDERAL AGENCY.**—The term “Federal agency” means a Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of a dam.

(6) **FEDERAL GUIDELINES FOR DAM SAFETY.**—The term “Federal Guidelines for Dam Safety” means the FEMA publication, numbered 93 and dated June 1979, that defines management practices for dam safety at all Federal agencies.

(7) **FEMA.**—The term “FEMA” means the Federal Emergency Management Agency.

(8) **HAZARD REDUCTION.**—The term “hazard reduction” means the reduction in the potential consequences to life and property of dam failure.

(9) **ICODS.**—The term “ICODS” means the Interagency Committee on Dam Safety established by section 7.

(10) ELIGIBLE SUBRECIPIENT.—The term “eligible sub-recipient”, in the case of a project receiving assistance under section 8A, includes—

- (A) a governmental organization; and
- (B) a nonprofit organization.

(11) PROGRAM.—The term “Program” means the national dam safety program established under section 8.

(12) REHABILITATION.—The term “rehabilitation” means the repair, replacement, reconstruction, or removal of a dam that is carried out to meet applicable State dam safety and security standards.

(13) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(14) STATE DAM SAFETY AGENCY.—The term “State dam safety agency” means a State agency that has regulatory authority over the safety of non-Federal dams.

(15) STATE DAM SAFETY PROGRAM.—The term “State dam safety program” means a State dam safety program approved and assisted under section 8(e).

(16) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

[33 U.S.C. 467]

SEC. 3. INSPECTION OF DAMS.

(a) IN GENERAL.—As soon as practicable, the Secretary of the Army, acting through the Chief of Engineers, shall carry out a national program of inspection of dams for the purpose of protecting human life and property. All dams in the United States shall be inspected by the Secretary except (1) dams under the jurisdiction of the Bureau of Reclamation, the Tennessee Valley Authority, or the International Boundary and Water Commission, (2) dams which have been constructed pursuant to licenses issued under the authority of the Federal Power Act, (3) dams which have been inspected within the twelve-month period immediately prior to the enactment of this Act by a State agency and which the Governor of such State requests be excluded from inspection, and (4) dams which the Secretary of the Army determines do not pose any threat to human life or property. The Secretary may inspect dams which have been licensed under the Federal Power Act upon request of the Federal Power Commission and dams under the jurisdiction of the International Boundary and Water Commission upon request of such Commission.

(b) STATE PARTICIPATION.—On request of a State dam safety agency, with respect to any dam the failure of which would affect the State, the head of a Federal agency shall—

- (1) provide information to the State dam safety agency on the construction, operation, maintenance, condition, or provisions for emergency operations of the dam; or
- (2) allow any official of the State dam safety agency to participate in the Federal inspection of the dam.

[33 U.S.C. 467a]

SEC. 4. INVESTIGATION REPORTS TO GOVERNORS.

As soon as practicable after inspection of a dam, the Secretary shall notify the Governor of the State in which such dam is located the results of such investigation. In any case in which any hazardous conditions are found during an inspection, upon request by the owner, the Secretary, acting through the Chief of Engineers, may perform detailed engineering studies to determine the structural integrity of the dam, subject to reimbursement of such expense by the owner of such dam. The Secretary shall immediately notify the Governor of any hazardous conditions found during an inspection. The Secretary shall provide advice to the Governor, upon request, relating to timely remedial measures necessary to mitigate or obviate any hazardous conditions found during an inspection.

【33 U.S.C. 467b】

SEC. 5. DETERMINATION OF DANGER TO HUMAN LIFE AND PROPERTY.

For the purpose of determining whether a dam (including the waters impounded by such dam) constitutes a danger to human life or property, the Secretary shall take into consideration the possibility that the dam might be endangered by overtopping, seepage, settlement, erosion, sediment, cracking, earth movement, earthquakes, failure of bulkheads, flashboard, gates on conduits, or other conditions which exist or which might occur in any area in the vicinity of the dam.

【33 U.S.C. 467c】

SEC. 6. NATIONAL DAM INVENTORY.

The Secretary of the Army shall maintain and update information on the inventory of dams in the United States. Such inventory of dams shall include any available information assessing each dam based on inspections completed by either a Federal agency or a State dam safety agency.

【33 U.S.C. 467d】

SEC. 7. INTERAGENCY COMMITTEE ON DAM SAFETY.

(a) ESTABLISHMENT.—There is established an Interagency Committee on Dam Safety—

(1) comprised of a representative of each of the Department of Agriculture, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of Labor, FEMA, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the United States Section of the International Boundary Commission; and

(2) chaired by the Administrator.

(b) DUTIES.—ICODS shall encourage the establishment and maintenance of effective Federal programs, policies, and guidelines intended to enhance dam safety for the protection of human life and property through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.

【33 U.S.C. 467e】

SEC. 8. NATIONAL DAM SAFETY PROGRAM.

(a) **IN GENERAL.**—The Administrator, in consultation with ICODS and State dam safety agencies, and the Board shall establish and maintain, in accordance with this section, a coordinated national dam safety program. The Program shall—

(1) be administered by FEMA to achieve the objectives set forth in subsection (c);

(2) involve, to the extent appropriate, each Federal agency; and

(3) include—

(A) each of the components described in subsection (d);

(B) the strategic plan described in subsection (b); and

(C) assistance for State dam safety programs described in subsection (e).

(b) **DUTIES.**—The Administrator shall prepare a strategic plan—

(1) to establish goals, priorities, performance measures, and target dates toward effectively administering this Act in order to improve the safety of dams in the United States; and

(2) to the extent feasible, to establish cooperation and coordination with, and assistance to, interested governmental entities in all States.

(c) **OBJECTIVES.**—The objectives of the Program are to—

(1) ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction;

(2) encourage acceptable engineering policies and procedures to be used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness;

(3) encourage the establishment and implementation of effective dam safety programs in each State based on State standards;

(4) develop and implement a comprehensive dam safety hazard education and public awareness initiative to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents;

(5) develop technical assistance materials for Federal and non-Federal dam safety programs;

(6) develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector; and

(7) develop technical assistance materials, seminars, and guidelines to improve security for dams in the United States.

(d) **COMPONENTS.**—

(1) **IN GENERAL.**—The Program shall consist of—

(A) a Federal element and a non-Federal element; and

(B) leadership activity, technical assistance activity, and public awareness activity.

(2) **ELEMENTS.**—

(A) **FEDERAL.**—The Federal element shall incorporate the activities and practices carried out by Federal agencies under section 7 to implement the Federal Guidelines for Dam Safety.

- (B) NON-FEDERAL.—The non-Federal element shall consist of—
- (i) the activities and practices carried out by States, local governments, and the private sector to safely build, regulate, operate, and maintain dams; and
 - (ii) Federal activities that foster State efforts to develop and implement effective programs for the safety of dams.
- (3) FUNCTIONAL ACTIVITIES.—
- (A) LEADERSHIP.—The leadership activity shall be the responsibility of FEMA and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States.
- (B) TECHNICAL ASSISTANCE.—The technical assistance activity shall consist of the transfer of knowledge and technical information among the Federal and non-Federal elements described in paragraph (2).
- (C) PUBLIC AWARENESS.—The public awareness activity shall provide for the education of the public, including State and local officials, in the hazards of dam failure, methods of reducing the adverse consequences of dam failure, and related matters.
- (e) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—
- (1) IN GENERAL.—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs, the Administrator shall provide assistance with amounts made available under section 13 to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).
- (2) CRITERIA AND BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, a State dam safety program must be working toward meeting the following criteria and budgeting requirement:
- (A) CRITERIA.—A State dam safety program must be authorized by State legislation to include, at a minimum—
- (i) the authority to review and approve plans and specifications to construct, enlarge, modify, remove, and abandon dams;
 - (ii) the authority to perform periodic inspections during dam construction to ensure compliance with approved plans and specifications;
 - (iii) a requirement that, on completion of dam construction, State approval must be given before operation of the dam;
 - (iv) the authority to require or perform periodic evaluations of all dams and reservoirs to determine the extent of the threat to human life and property in case of failure;
 - (v)(I) the authority to require or perform the inspection, at least once every 5 years, of all dams and reservoirs that would pose a significant threat to

human life and property in case of failure to determine the continued safety of the dams and reservoirs; and

(II) a procedure for more detailed and frequent safety inspections;

(vi) a requirement that all inspections be performed under the supervision of a State-registered professional engineer with related experience in dam design and construction;

(vii) the authority to issue notices, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, install and monitor instrumentation, improve security, revise operating procedures, or take other actions, including breaching dams when necessary;

(viii) regulations for carrying out the legislation of the State described in this subparagraph;

(ix) provision for necessary funds—

(I) to ensure timely repairs or other changes to, or removal of, a dam in order to protect human life and property; and

(II) if the owner of the dam does not take action described in subclause (I), to take appropriate action as expeditiously as practicable;

(x) a system of emergency procedures to be used if a dam fails or if the failure of a dam is imminent; and

(xi) an identification of—

(I) each dam the failure of which could be reasonably expected to endanger human life;

(II) the maximum area that could be flooded if the dam failed; and

(III) necessary public facilities that would be affected by the flooding.

(B) BUDGETING REQUIREMENT.—For a State to be eligible for assistance under this subsection, State appropriations must be budgeted to carry out the legislation of the State under subparagraph (A).

(3) WORK PLANS.—The Administrator shall enter into a agreement with each State receiving assistance under paragraph (2) to develop a work plan necessary for the State dam safety program to reach a level of program performance specified in the agreement.

(4) MAINTENANCE OF EFFORT.—Assistance may not be provided to a State under this subsection for a fiscal year unless the State enters into such agreement with the Administrator as the Administrator requires to ensure that the State will maintain the aggregate expenditures of the State from all other sources for programs to ensure dam safety for the protection of human life and property at or above a level equal to the average annual level of such expenditures for the 2 fiscal years preceding the fiscal year.

(5) APPROVAL OF PROGRAMS.—

(A) SUBMISSION.—For a State to be eligible for assistance under this subsection, a plan for a State dam safety program shall be submitted to the Administrator for approval.

(B) APPROVAL.—A State dam safety program shall be deemed to be approved 120 days after the date of receipt by the Administrator unless the Administrator determines within the 120-day period that the State dam safety program fails to meet the requirements of paragraphs (1) through (3).

(C) NOTIFICATION OF DISAPPROVAL.—If the Administrator determines that a State dam safety program does not meet the requirements for approval, the Administrator shall immediately notify the State in writing and provide the reasons for the determination and the changes that are necessary for the plan to be approved.

(6) REVIEW OF STATE DAM SAFETY PROGRAMS.—Using the expertise of the Board, the Administrator shall periodically review State dam safety programs. If the Board finds that a State dam safety program has proven inadequate to reasonably protect human life and property and the Administrator concurs, the Administrator shall revoke approval of the State dam safety program, and withhold assistance under this subsection, until the State dam safety program again meets the requirements for approval.

(f) BOARD.—

(1) ESTABLISHMENT.—The Administrator shall establish an advisory board to be known as the “National Dam Safety Review Board” to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the Administrator on national dam safety policy.

(2) AUTHORITY.—The Board may use the expertise of Federal agencies and enter into contracts for necessary studies to carry out this section.

(3) VOTING MEMBERSHIP.—The Board shall consist of 11 voting members selected by the Administrator for expertise in dam safety, of whom—

(A) 1 member shall represent the Department of Agriculture;

(B) 1 member shall represent the Department of Defense;

(C) 1 member shall represent the Department of the Interior;

(D) 1 member shall represent FEMA;

(E) 1 member shall represent the Federal Energy Regulatory Commission;

(F) 5 members shall be selected by the Administrator from among State dam safety officials; and

(G) 1 member shall be selected by the Administrator to represent the private sector.

(4) NONVOTING MEMBERSHIP.—The Administrator, in consultation with the Board, may invite a representative of the National Laboratories of the Department of Energy and may invite representatives from Federal or State agencies, rep-

representatives from nongovernmental organizations, or dam safety experts, as needed, to participate in meetings of the Board.

(5) DUTIES.—

(A) IN GENERAL.—The Board shall encourage the establishment and maintenance of effective programs, policies, and guidelines to enhance dam safety for the protection of human life and property throughout the United States.

(B) COORDINATION AND INFORMATION EXCHANGE AMONG AGENCIES.—In carrying out subparagraph (A), the Board shall encourage coordination and information exchange among Federal and State dam safety agencies that share common problems and responsibilities for dam safety, including planning, design, construction, operation, emergency action planning, inspections, maintenance, regulation or licensing, technical or financial assistance, research, and data management.

(6) WORK GROUPS.—The Administrator may establish work groups under the Board to assist the Board in accomplishing its goals. The work groups shall consist of members of the Board and other individuals selected by the Administrator.

(7) COMPENSATION OF MEMBERS.—

(A) FEDERAL EMPLOYEES.—Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States.

(B) OTHER MEMBERS.—Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

(8) TRAVEL EXPENSES.—

(A) REPRESENTATIVES OF FEDERAL AGENCIES.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a Federal agency shall be reimbursed of appropriations for travel expenses by his or her agency, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

(B) OTHER INDIVIDUALS.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a State agency, the member of the Board who represents the private sector, and each member of a work group created under paragraph (1) shall be reimbursed for travel expenses by FEMA, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular place of business of the member in performance of services for the Board.

(9) APPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Chapter 10 of title 5, United States Code, shall not apply to the Board.

[33 U.S.C. 467f]

SEC. 8A. REHABILITATION OF HIGH HAZARD POTENTIAL DAMS.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish, within FEMA, a program to provide technical, planning, design, and construction assistance in the form of grants to States with dam safety programs for rehabilitation of eligible high hazard potential dams.

(b) ELIGIBLE ACTIVITIES.—A grant awarded under this section to a State may be used by the State to award grants to eligible subrecipients for—

- (1) repair;
- (2) removal; or
- (3) any other structural or nonstructural measures to rehabilitate an eligible high hazard potential dam.

(c) AWARD OF GRANTS.—

(1) APPLICATION.—

(A) IN GENERAL.—A State interested in receiving a grant under this section may submit to the Administrator an application for the grant.

(B) REQUIREMENTS.—An application submitted to the Administrator under this section shall be submitted at such time, be in such form, and contain such information as the Administrator may prescribe by regulation.

(2) GRANT.—

(A) IN GENERAL.—The Administrator may make a grant in accordance with this section for rehabilitation of eligible high hazard potential dams to a State that submits an application for the grant in accordance with the regulations prescribed by the Administrator.

(B) GRANT AGREEMENT.—The Administrator shall enter into a grant agreement with the State to establish the terms of the grant and the projects for which the grant is awarded, including the amount of the grant.

(C) GRANT ASSURANCE.—As part of a grant agreement under subparagraph (B), the Administrator shall require that each eligible subrecipient to which the State awards a grant under this section provides an assurance, with respect to the dam to be rehabilitated by the eligible subrecipient, that the dam owner will carry out a plan for maintenance of the dam during the expected life of the dam.

(D) LIMITATION.—A State may not award a grant to an eligible subrecipient under this section that exceeds, for any 1 dam, the lesser of—

- (i) 12.5 percent of the total amount of funds made available to carry out this section; or
- (ii) \$7,500,000.

(d) REQUIREMENTS.—

(1) APPROVAL.—A grant awarded under this section to an eligible subrecipient for a project shall be approved by the relevant State dam safety agency.

(2) ELIGIBLE SUBRECIPIENT REQUIREMENTS.—To receive a grant under this section, an eligible subrecipient shall, with respect to the dam to be rehabilitated by the eligible subrecipient—

(A) demonstrate that the community in which the dam is located participates in, and complies with, all applicable Federal flood insurance programs, including demonstrating that such community is participating in the National Flood Insurance Program, and is not on probation, suspended, or withdrawn from such Program;

(B) beginning not later than 2 years after the date on which the Administrator publishes criteria for hazard mitigation plans under paragraph (3), demonstrate that the Tribal or local government with jurisdiction over the area in which the dam is located has in place a hazard mitigation plan that—

(i) includes all dam risks; and

(ii) complies with the Disaster Mitigation Act of 2000 (Public Law 106–390; 114 Stat. 1552);

(C) commit to provide operation and maintenance of the project for the expected life of the dam following completion of rehabilitation;

(D) comply with such minimum eligibility requirements as the Administrator may establish to ensure that each owner and operator of a dam under a participating State dam safety program and that receives assistance under this section—

(i) acts in accordance with the State dam safety program; and

(ii) carries out activities relating to the public in the area around the dam in accordance with the hazard mitigation plan described in subparagraph (B); and

(E) comply with section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)) (as in effect on the date of enactment of this section) with respect to projects receiving assistance under this section in the same manner as recipients are required to comply in order to receive financial contributions from the Administrator for emergency preparedness purposes.

(3) HAZARD MITIGATION PLAN CRITERIA.—Not later than 1 year after the date of enactment of this paragraph, the Administrator, in consultation with the Board, shall publish criteria for hazard mitigation plans required under paragraph (2)(B).

(e) FLOODPLAIN MANAGEMENT PLANS.—

(1) IN GENERAL.—As a condition of receipt of assistance under this section, an eligible subrecipient shall demonstrate that a floodplain management plan to reduce the impacts of future flood events in the area protected by the project—

(A) is in place; or

- (B) will be—
- (i) developed not later than 2 years after the date of execution of a project agreement for assistance under this section; and
 - (ii) implemented not later than 2 years after the date of completion of construction of the project.
- (2) INCLUSIONS.—A plan under paragraph (1) shall address—
- (A) potential measures, practices, and policies to reduce loss of life, injuries, damage to property and facilities, public expenditures, and other adverse impacts of flooding in the area protected by the project;
 - (B) plans for flood fighting and evacuation; and
 - (C) public education and awareness of flood risks.
- (3) PLAN CRITERIA AND TECHNICAL SUPPORT.—The Administrator, in consultation with the Board, shall provide criteria, and may provide technical support, for the development and implementation of floodplain management plans prepared under this subsection.
- (f) PRIORITY SYSTEM.—The Administrator, in consultation with the Board, shall develop a risk-based priority system for use in identifying eligible high hazard potential dams for which grants may be made under this section.
- (g) FUNDING.—
- (1) COST SHARING.—
 - (A) IN GENERAL.—Any assistance provided under this section for a project shall be subject to a non-Federal cost-sharing requirement of not less than 35 percent.
 - (B) IN-KIND CONTRIBUTIONS.—The non-Federal share under subparagraph (A) may be provided in the form of in-kind contributions.
 - (2) ALLOCATION OF FUNDS.—The total amount of funds made available to carry out this section for each fiscal year shall be distributed as follows:
 - (A) EQUAL DISTRIBUTION.— $\frac{1}{3}$ shall be distributed equally among the States in which the projects for which applications are submitted under subsection (c)(1) are located.
 - (B) NEED-BASED.— $\frac{2}{3}$ shall be distributed among the States in which the projects for which applications are submitted under subsection (c)(1) are located based on the proportion that—
 - (i) the number of eligible high hazard potential dams in the State; bears to
 - (ii) the number of eligible high hazard potential dams in all such States.
- (h) USE OF FUNDS.—None of the funds provided in the form of a grant or otherwise made available under this section shall be used—
- (1) to rehabilitate a Federal dam;
 - (2) to perform routine operation or maintenance of a dam;
 - (3) to modify a dam to produce hydroelectric power;
 - (4) to increase water supply storage capacity; or

(5) to make any other modification to a dam that does not also improve the safety of the dam.

(i) **CONTRACTUAL REQUIREMENTS.**—

(1) **IN GENERAL.**—Subject to paragraph (2), as a condition on the receipt of a grant under this section of an amount greater than \$1,000,000, an eligible subrecipient that receives the grant shall require that each contract and subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services entered into using funds from the grant be awarded in the same manner as a contract for architectural and engineering services is awarded under—

(A) chapter 11 of title 40, United States Code; or

(B) an equivalent qualifications-based requirement prescribed by the relevant State.

(2) **NO PROPRIETARY INTEREST.**—A contract awarded in accordance with paragraph (1) shall not be considered to confer a proprietary interest upon the United States.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) \$10,000,000 for fiscal years 2017 and 2018;

(2) \$25,000,000 for fiscal year 2019;

(3) \$40,000,000 for fiscal year 2020; and

(4) \$60,000,000 for each of fiscal years 2021 through 2026.

[33 U.S.C. 467f-2]

SEC. 9. RESEARCH.

(a) **IN GENERAL.**—The Administrator, in cooperation with the Board, shall carry out a program of technical and archival research to develop and support—

(1) improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection;

(2) devices for the continued monitoring of the safety of dams;

(3) development and maintenance of information resources systems needed to support managing the safety of dams; and

(4) initiatives to guide the formulation of effective public policy and advance improvements in dam safety engineering, security, and management.

(b) **CONSULTATION.**—The Administrator shall provide for State participation in research under subsection (a) and periodically advise all States and Congress of the results of the research.

[33 U.S.C. 467g]

SEC. 10. DAM SAFETY TRAINING.

At the request of any State that has or intends to develop a State dam safety program, the Administrator shall provide training for State dam safety staff and inspectors.

[33 U.S.C. 467g-1]

SEC. 11. PUBLIC AWARENESS AND OUTREACH FOR DAM SAFETY.

The Administrator, in consultation with other Federal agencies, State and local governments, dam owners, the emergency management community, the private sector, nongovernmental organizations and associations, institutions of higher education, and any other appropriate entities shall, subject to the availability of appropriations, carry out a nationwide public awareness and outreach initiative to assist the public in preparing for, mitigating, responding to, and recovering from dam incidents.

[33 U.S.C. 467g-2]

SEC. 12. REPORTS.

Not later than 90 days after the end of each odd-numbered fiscal year, the Administrator shall submit a report to Congress that—

- (1) describes the status of the Program;
- (2) describes the progress achieved by Federal agencies during the 2 preceding fiscal years in implementing the Federal Guidelines for Dam Safety;
- (3) describes the progress achieved in dam safety by States participating in the Program; and
- (4) includes any recommendations for legislative and other action that the Administrator considers necessary.

[33 U.S.C. 467h]

SEC. 13. STATUTORY CONSTRUCTION.

Nothing in this Act and no action or failure to act under this Act shall—

- (1) create any liability in the United States or its officers or employees for the recovery of damages caused by such action or failure to act;
- (2) relieve an owner or operator of a dam of the legal duties, obligations, or liabilities incident to the ownership or operation of the dam; or
- (3) preempt any other Federal or State law.

[33 U.S.C. 467i]

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**(a) NATIONAL DAM SAFETY PROGRAM.—**

(1) **ANNUAL AMOUNTS.**—There are authorized to be appropriated to FEMA to carry out sections 7, 8, and 12 (in addition to any amounts made available for similar purposes included in any other Act and amounts made available under subsections (b) through (e)), \$9,200,000 for each of fiscal years 2019 through 2023, to remain available until expended.

(2) ALLOCATION.—

(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), for each fiscal year, amounts made available under this subsection to carry out section 8 shall be allocated among the States as follows:

- (i) One-third among States that qualify for assistance under section 8(e).

(ii) Two-thirds among States that qualify for assistance under section 8(e), to each such State in proportion to—

(I) the number of dams in the State that are listed as State-regulated dams on the inventory of dams maintained under section 6; as compared to

(II) the number of dams in all States that are listed as State-regulated dams on the inventory of dams maintained under section 6.

(B) MAXIMUM AMOUNT OF ALLOCATION.—

(i) IN GENERAL.—The amount of funds allocated to a State under this paragraph may not exceed 50 percent of the reasonable cost of implementing the State dam safety program.

(ii) FISCAL YEAR 2015 AND SUBSEQUENT FISCAL YEARS.—For fiscal year 2015 and each subsequent fiscal year, the amount of funds allocated to a State under this paragraph may not exceed the amount of funds committed by the State to implement dam safety activities.

(C) DETERMINATION.—The Administrator and the Board shall determine the amount allocated to States.

(b) NATIONAL DAM INVENTORY.—There is authorized to be appropriated to carry out section 6 \$500,000 for each of fiscal years 2019 through 2023.

(c) PUBLIC AWARENESS.—There is authorized to be appropriated to carry out section 11 \$1,000,000 for each of fiscal years 2019 through 2023.

(d) RESEARCH.—There is authorized to be appropriated to carry out section 9 \$1,450,000 for each of fiscal years 2019 through 2023, to remain until expended.

(e) DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 10 \$750,000 for each of fiscal years 2019 through 2023.

(f) STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 8 through 10 \$1,000,000 for each of fiscal years 2019 through 2023.

(g) LIMITATION ON USE OF AMOUNTS.—Amounts made available under this Act may not be used to construct or repair any Federal or non-Federal dam.

[33 U.S.C. 467j]

SEC. 15. NATIONAL LOW-HEAD DAM INVENTORY.

(a) DEFINITIONS.—In this section:

(1) INVENTORY.—The term “inventory” means the national low-head dam inventory developed under subsection (b)(1)(A).

(2) LOW-HEAD DAM.—The term “low-head dam” means a river-wide artificial barrier that generally spans a stream channel, blocking the waterway and creating a backup of water behind the barrier, with a drop off over the wall of not less than 6 inches and not more than 25 feet.

(b) NATIONAL LOW-HEAD DAM INVENTORY.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Secretary of the Army, in consultation with the heads of appropriate Federal and State agencies, shall—

(A) develop an inventory of low-head dams in the United States that includes—

(i) the location, ownership, description, current use, condition, height, and length of each low-head dam;

(ii) any information on public safety conditions at each low-head dam;

(iii) public safety information on the dangers of low-head dams;

(iv) a directory of financial and technical assistance resources available to reduce safety hazards and fish passage barriers at low-head dams; and

(v) any other relevant information concerning low-head dams; and

(B) submit the inventory to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) DATA.—In carrying out this subsection, the Secretary shall—

(A) coordinate with Federal and State agencies and other relevant entities; and

(B) use data provided to the Secretary by those agencies and entities.

(3) PUBLIC AVAILABILITY.—The Secretary shall make the inventory publicly available, including on a publicly available website.

(4) UPDATES.—The Secretary, in consultation with the heads of appropriate Federal and State agencies, shall maintain and periodically publish updates to the inventory.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section \$30,000,000.

(d) CLARIFICATION.—Nothing in this section provides authority to the Secretary to carry out an activity, with respect to a low-head dam, that is not explicitly authorized under this section.

[33 U.S.C. 467o]