The National Environmental Policy Act of 1969, referred to in text, 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.

§ 422. Construction of dams across Yellowstone River

Where, in carrying out projects under the provisions of the national reclamation Act it shall be necessary to construct dams in or across the Yellowstone River in the State of Montana, the Secretary of the Interior is hereby authorized to construct and use and operate the same in the manner and for the purposes contemplated by said reclamation Act.

(Mar. 3, 1905, ch. 1476, 33 Stat. 1045.)

REFERENCES IN TEXT

The national reclamation Act, referred to in text, probably means act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, 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.

SUBCHAPTER IV—CONSTRUCTION OF SMALL PROJECTS

§ 422a. Declaration of purpose

The purpose of this subchapter is to encourage State and local participation in the development of projects under the Federal reclamation laws, with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control, and to provide for Federal assistance in the development of similar projects in the seventeen western reclamation States by non-Federal organizations.

(Aug. 6, 1956, ch. 972, § 1, 70 Stat. 1044; Pub. L. 99–546, title III, § 302, Oct. 27, 1986, 100 Stat. 3053.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in text, are defined in section 422b of this title.

AMENDMENTS

1986—Pub. L. 99–546 inserted ‘‘, with emphasis on rehabilitation and betterment of existing projects for purposes of significant conservation of water, energy and the environment and for purpose of water quality control,’’ after ‘‘laws’’.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 310 of title III of Pub. L. 99–546 provided that: ‘‘The provisions of Sections 303 and 308 of this title [amending sections 422c and 422h of this title] shall take effect upon enactment of this title [Oct. 27, 1986]. The provisions of sections 304(a) and 305 of this title [amending section 422d of this title] shall be applicable to all proposals for which final applications are received by the Secretary after January 1, 1986. The provisions of Sections 302, 304(b), 306, and 307 [amending this section and sections 422d and 422e of this title] shall be applicable to all proposals for which draft applications are received by the Secretary after Auguest [sic] 15, 1986.’’

SEPARABILITY

Section 12 of act Aug. 6, 1956, provided that: ‘‘If any provisions of this Act [enacting this subchapter] or the application of such provision to any person, organization, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, organizations, or circumstances other than those as to which it is held invalid shall not be affected thereby.’’

§ 422b. Definitions

As used in this subchapter—

(a) The term ‘‘construction’’ shall include rehabilitation and betterment.

(b) The term ‘‘Federal reclamation laws’’ shall mean the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto.

(c) The term ‘‘organization’’ shall mean a State or a department, agency, or political subdivision thereof or a conservancy district, irrigation district, water users' association, an agency created by interstate compact, or similar organization which has capacity to contract with the United States under the Federal reclamation laws.

(d) The term ‘‘project’’ shall mean (i) any complete irrigation project, or (ii) any multiple-purpose water resource project that is authorized or is eligible for authorization under the Federal reclamation laws, or (iii) any distinct unit of a project described in clause (i) and (ii) or (iv) any project for the drainage of irrigated lands, without regard to whether such lands are irrigated with water supplies developed pursuant to the Federal reclamation laws, or (v) any project for the rehabilitation and betterment of a project or distinct unit described in clauses (i), (ii), (iii), and (iv): *Provided*, That the estimated total cost of the project described in clause (i), (ii), (iii), (iv), or (v) does not exceed the maximum allowable estimated total project cost as determined by subsection (f) hereof: *Provided further*, That a project described in clause (i), (ii), or (iii) may consist of existing facilities as distinct from newly constructed facilities, and funds made available pursuant to this subchapter may be utilized to acquire such facilities subject to a determination by the Secretary that such facilities meet standards of design and construction which he shall promulgate and that the cost of such existing facilities represent less than fifty per centum of the cost of the project. Nothing contained in this subchapter shall preclude the making of more than one loan or grant, or combined loan and grant, to an organization so long as no two such loans or grants, or combinations thereof, are for the same project, as herein defined.

(e) The term ‘‘Secretary’’ shall mean the Secretary of the Interior.

(f) The maximum allowable estimated total project cost of a proposal submitted during any given calendar year shall be determined by the Secretary using the Bureau of Reclamation composite construction cost index for January of that year with $15,000,000 as the January 1971 base.

(Aug. 6, 1956, ch. 972, § 2, 70 Stat. 1044; Pub. L. 89–553, § 1(1), Sept. 2, 1966, 80 Stat. 376; Pub. L. 92–167, § 1(1), Nov. 24, 1971, 85 Stat. 488; Pub. L. 94–181, § 1(a), (b), Dec. 27, 1975, 89 Stat. 1049.)

REFERENCES IN TEXT

Act of June 17, 1902, referred to in par. (b), is popularly known as the Reclamation Act, 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.

AMENDMENTS

1975—Subsec. (d). Pub. L. 94–181, § 1(a), substituted provisions limiting the estimated cost of the project described in cls. (i), (ii), (iii), (iv), and (v) to the maximum allowable estimated total project cost as determined by subsection (f) of this section, for provisions limiting the estimated cost of such projects to $15,000,000, and inserted proviso relating to a project described in cl. (i), (ii), or (iii).

Subsec. (f). Pub. L. 94–181, § 1(b), added subsec. (f).

1971—Subsec. (d). Pub. L. 92–167 redefined the size and character of projects which are eligible for approval under the program, increasing money limitation from $1,000,000 to $15,000,000 and making projects eligible, without being only for irrigation, for single purpose irrigation, single purpose drainage, multiple purpose, a distinct unit of the foregoing, or rehabilitation of any of the foregoing.

1966—Subsec. (d). Pub. L. 89–553 raised from $5,000,000 to $6,500,000 the maximum amount for a loan or grant for a particular project.

RETROACTIVE EFFECT OF 1966 AMENDMENT

Section 2 of Pub. L. 89–553 provided that: ''Nothing contained in this Act [amending this section and sections 422d, 422e, 422h, and 422j of this title] shall be applicable to or affect in any way the terms on which any loan or grant has been made prior to the effective date of this Act [Sept. 2, 1966].''

§ 422c. Proposals; submission; payment for cost of examination

Any organization desiring to avail itself of the benefits provided in this subchapter shall submit a proposal therefor to the Secretary in such form and manner as he shall prescribe. Each such proposal shall be accompanied by a payment of $5,000 to defray, in part, the cost of examining the proposal.

(Aug. 6, 1956, ch. 972, § 3, 70 Stat. 1044; Pub. L. 99–546, title III, § 303, Oct. 27, 1986, 100 Stat. 3053.)

AMENDMENTS

1986—Pub. L. 99–546 substituted ''$5,000'' for ''$1,000''.

§ 422d. Contents of proposals

(a) Plans and estimates; review by States; allocation of capital costs

Any proposal with respect to the construction of a project which has not theretofore been authorized for construction under the Federal reclamation laws shall set forth, among other things, a plan and estimated cost in detail comparable to those included in preauthorization reports required for a Federal reclamation project; shall have been submitted for review by the States of the drainage basin in which the project is located in like manner as provided in section 701–1(c) of title 33, except that the review may be limited to the State or States in which the project is located if the proposal is one solely for rehabilitation and betterment of an existing project; and shall include a proposed allocation of capital costs to functions such that costs for facilities used for a single purpose shall be allocated to that purpose and costs for facilities used for more than one purpose shall be so allocated among the purposes served that each purpose will share equitably in the costs of such joint facilities. The costs of means and measures to prevent loss of and damage to fish and wildlife resources shall be considered as project costs and allocated as may be appropriate among project functions.

(b) Lands and water rights; ownership; financing

(1) Every such proposal shall include a showing that the organization already holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by him) and rights, pursuant to applicable State law, to the use of water necessary for the successful construction, operation, and maintenance of the project and that it is ready, able, and willing to finance otherwise than by loan and grant of Federal funds such portion of the cost of the project (which portion shall include all costs of acquiring lands, interests in land, and rights to the use of water), except as provided in section 422e(b)(2) of this title as the Secretary shall have advised is proper in the circumstances.

(2) The Secretary shall require each organization to contribute toward the cost of the project (other than by loan and/or grant of Federal funds) an amount equal to 25 percent or more of the allowable estimated cost of the project: *Provided*, That the Secretary, at his discretion, may reduce the amount of such contribution to the extent that he determines that the organization is unable to secure financing from other sources under reasonable terms and conditions, and shall include letters from lenders or other written evidence in support of any funding of an applicant's inability to secure such financing in any project proposal transmitted to the Congress: *Provided further*, That under no circumstances shall the Secretary reduce the amount of such contribution to less than 10 percent of the allowable estimated total project costs. In determining the amount of the contribution as required by this paragraph, the Secretary shall credit toward that amount the cost of investigations, surveys, engineering, and other services necessary to the preparation of proposals and plans for the project as required by the Secretary, and the costs of lands and rights-of-way required for the project, and the $5,000 fee described in section 422c of this title. In determining the allowable estimated cost of the project, the Secretary shall not include the amount of grants accorded to the organization under section 422e(b) of this title.

(c) Transmittal of findings and approval to Congress; certification of soil survey; reservation of land

At such time as a project is found by the Secretary and the Governor of the State in which it is located (or an appropriate State agency designated by him) to be financially feasible, is determined by the Secretary to constitute a reasonable risk under the provisions of this subchapter, and is approved by the Secretary, such findings and approval shall be transmitted to the Congress. Each project proposal transmitted by the Secretary to the Congress shall include a certification by the Secretary that an adequate soil survey and land classification has been