§ 509. Authorization of appropriations; report to Congress

There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary and, effective October 1, 1983, not to exceed an additional $650,000,000 (October 1, 1983, price levels), and, effective October 1, 2000, not to exceed an additional $95,000,000 (October 1, 2000, price levels), and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels), and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this subchapter to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds exceeding $1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes, shall be obligated for carrying out actual construction to modify an existing dam under authority of this subchapter prior to 30 calendar days from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

(Pub. L. 95–578, § 5, Nov. 2, 1978, 92 Stat. 2471; Pub. L. 98–404, § 1(3), Aug. 28, 1984, 98 Stat. 1482; Pub. L. 106–377, § 1(a)(2) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A–67; Pub. L. 107–117, div. B, § 503(2), Jan. 10, 2002, 115 Stat. 2308; Pub. L. 108–439, § 1(b), Dec. 3, 2004, 118 Stat. 2627.)

AMENDMENTS

2004—Pub. L. 108–439 inserted ''and, effective October 1, 2003, not to exceed an additional $540,000,000 (October 1, 2003, price levels),'' after ''(October 1, 2001, price levels),'' and substituted ''$1,250,000 (October 1, 2003, price levels), as adjusted to reflect any ordinary fluctuations in construction costs indicated by applicable engineering cost indexes,'' for ''$750,000''.

2002—Pub. L. 107–117 inserted ''and, effective October 1, 2001, not to exceed an additional $32,000,000 (October 1, 2001, price levels),'' after ''(October 1, 2000, price levels),''.

2000—Pub. L. 106–377 inserted ''and, effective October 1, 2000, not to exceed an additional $95,000,000 (October 1, 2000, price levels),'' after ''(October 1, 1983, price levels),'' and substituted ''30 calendar days'' for ''sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain)''.

1984—Pub. L. 98–404 substituted ''and, effective October 1, 1983, not to exceed an additional $650,000,000 (October 1, 1983, price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein, to carry out the provisions of this subchapter to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds exceeding $750,000'' for '', but not to exceed $100,000,000, to carry out the provisions of this subchapter of this title to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds''.

§ 509a. Project beneficiaries

(a) Notice of modification

On identifying a Bureau of Reclamation facility for modification, the Secretary shall provide to the project beneficiaries written notice—

(1) describing the need for the modification and the process for identifying and implementing the modification; and

(2) summarizing the administrative and legal requirements relating to the modification.

(b) Consultation

The Secretary shall—

(1) provide project beneficiaries an opportunity to consult with the Bureau of Reclamation on the planning, design, and construction of the proposed modification; and

(2) in consultation with project beneficiaries, develop and provide timeframes for the consultation described in paragraph (1).

(c) Alternatives

(1) Prior to submitting the reports required under section 509 of this title, the Secretary shall consider any alternative submitted in writing, in accordance with the timeframes established under subsection (b) of this section, by a project beneficiary that has elected to consult with the Bureau of Reclamation on a modification.

(2) The Secretary shall provide to the project beneficiary a timely written response describing proposed actions, if any, to address the recommendation.

(3) The response of the Secretary shall be included in the reports required by section 509 of this title.

(d) Waiver

The Secretary may waive 1 or more of the requirements of subsections (a), (b), and (c) of this section, if the Secretary determines that implementation of the requirement could have an adverse impact on dam safety or security.

(Pub. L. 95–578, § 5A, as added Pub. L. 108–439, § 2(b), Dec. 3, 2004, 118 Stat. 2627.)

SUBCHAPTER XI–B—AGING INFRASTRUCTURE

§ 510. Definitions

In this subchapter:

(1) Inspection

The term ''inspection'' means an inspection of a project facility carried out by the Secretary—

(A) to assess and determine the general condition of the project facility; and

(B) to estimate the value of property, and the size of the population, that would be at risk if the project facility fails, is breached, or otherwise allows flooding to occur.

(2) Project facility

The term ''project facility'' means any part or incidental feature of a project, excluding high- and significant-hazard dams, constructed under the Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)[1].

(3) Reserved works

The term ''reserved works'' mean[2] any project facility at which the Secretary carries out the operation and maintenance of the project facility.

(4) Secretary

The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(5) Transferred works

The term ''transferred works'' means a project facility, the operation and maintenance of which is carried out by a non-Federal entity, under the provisions of a formal operation and maintenance transfer contract.

(6) Transferred works operating entity

The term ''transferred works operating entity'' means the organization which is contractually responsible for operation and maintenance of transferred works.

(7) Extraordinary operation and maintenance work

The term ''extraordinary operation and maintenance work'' means major, nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is—

(A) intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits; and

(B) greater than 10 percent of the contractor's or the transferred works operating entity's annual operation and maintenance budget for the facility, or greater than $100,000.

(Pub. L. 111–11, title IX, § 9601, Mar. 30, 2009, 123 Stat. 1346.)

REFERENCES IN TEXT

Act of June 17, 1902 (32 Stat. 388, chapter 1093), referred to in par. (2), is popularly known as the Reclamation Act and is classified generally to chapter 12 (§ 371 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 371 of this title and Tables.

§ 510a. Guidelines and inspection of project facilities and technical assistance to transferred works operating entities

(a) Guidelines and inspections

(1) Development of guidelines

Not later than 1 year after March 30, 2009, the Secretary in consultation with transferred works operating entities shall develop, consistent with existing transfer contracts, specific inspection guidelines for project facilities which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such project facilities were to fail.

(2) Conduct of inspections

Not later than 3 years after March 30, 2009, the Secretary shall conduct inspections of those project facilities, which are in proximity to urbanized areas and which could pose a risk to public safety or property damage if such facilities were to fail, using such specific inspection guidelines and criteria developed pursuant to paragraph (1). In selecting project facilities to inspect, the Secretary shall take into account the potential magnitude of public safety and economic damage posed by each project facility.

(3) Treatment of costs

The costs incurred by the Secretary in conducting these inspections shall be nonreimbursable.

(b) Use of inspection data

The Secretary shall use the data collected through the conduct of the inspections under subsection (a)(2) to—

(1) provide recommendations to the transferred works operating entities for improvement of operation and maintenance processes, operating procedures including operation guidelines consistent with existing transfer contracts, and structural modifications to those transferred works;

(2) determine an appropriate inspection frequency for such nondam project facilities which shall not exceed 6 years; and

(3) provide, upon request of transferred work operating entities, local governments, or State agencies, information regarding potential hazards posed by existing or proposed residential, commercial, industrial or public-use development adjacent to project facilities.

(c) Technical assistance to transferred works operating entities

(1) Authority of Secretary to provide technical assistance

The Secretary is authorized, at the request of a transferred works operating entity in proximity to an urbanized area, to provide technical assistance to accomplish the following, if consistent with existing transfer contracts:

(A) Development of documented operating procedures for a project facility.

(B) Development of documented emergency notification and response procedures for a project facility.

(C) Development of facility inspection criteria for a project facility.

(D) Development of a training program on operation and maintenance requirements and practices for a project facility for a transferred works operating entity's workforce.

(E) Development of a public outreach plan on the operation and risks associated with a project facility.

[1] So in original. Probably should be another closing parenthesis before the final period.

[2] So in original. Probably should be ''means''.