

cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of sections 2671 through 2680 of title 28 and sections 8101 through 8193 of title 5.

**(c) Savings clause**

Nothing in this chapter shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

(Pub. L. 103-177, title II, §203, Dec. 3, 1993, 107 Stat. 2021.)

**§ 3734. Obligated service; breach of contract**

**(a) Obligated service**

Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this subchapter, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

**(b) Breach of contract; repayment**

Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service that was performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Secretary of the Treasury.

(Pub. L. 103-177, title II, §204, Dec. 3, 1993, 107 Stat. 2022.)

SUBCHAPTER III—GENERAL PROVISIONS

**§ 3741. Regulations**

Except as otherwise provided by this chapter, the Secretary shall promulgate final regulations for the implementation of this chapter within 24 months after December 3, 1993. All regulations 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 per-

son 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 of this chapter 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**

|       |   |
|-------|---|
| Sec.  |   |
| 3801. | Findings.   |
| 3802. | Definitions.                                      |
| 3803. | Dam Safety Maintenance and Repair Program.        |
|       | (a) Establishment.                                |
|       | (b) Transfer of existing functions and personnel. |
|       | (c) Rehabilitation.                               |
|       | (d) Maintenance action plan.                      |
|       | (e) Identification of dams.                       |
|       | (f) Limitation on program authorization.          |
|       | (g) Technical assistance.                         |
|       | (h) Contract authority.                           |
|       | (i) Annual report.                                |
| 3804. | Authorization of appropriations.                  |

**§ 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.)

#### SHORT TITLE

Section 1 of Pub. L. 103-302 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.)

#### 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, as amended, 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) of this section 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) of this section 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) of this section.

#### (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) of this section.

#### (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. Infrequent 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) of this section 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.) to carry out the Dam Safety Maintenance and Repair Program established under this chapter.

**(i) Annual report**

The Secretary shall submit an annual report on the implementation of this chapter. The report shall include—

(1) the list of dams and their status on the maintenance action plan developed under this section; and

(2) the projected total cost and a schedule of the projected annual cost of rehabilitation or repair for each dam under this section.

The report shall be submitted at the time the budget is required to be submitted under section 1105 of title 31 to the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives and the Committee on Indian Affairs of the Senate.

(Pub. L. 103-302, § 4, Aug. 23, 1994, 108 Stat. 1561; Pub. L. 104-109, § 3, Feb. 12, 1996, 110 Stat. 764.)

## REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (h), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

## AMENDMENTS

1996—Subsec. (h). Pub. L. 104-109 substituted “under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)” for “(under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))), as amended.”.

## CHANGE OF NAME

Committee on Natural Resources of House of Representatives treated as referring to Committee on Resources of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Subcommittee on Native American Affairs changed to Subcommittee on Native American and Insular Affairs.

**§ 3804. Authorization of appropriations**

There is authorized to be appropriated such sums as may be necessary to carry out this chapter. Funds provided under this chapter are to be considered nonreimbursable.

(Pub. L. 103-302, § 5, Aug. 23, 1994, 108 Stat. 1563.)

**CHAPTER 41—INDIAN LANDS OPEN DUMP CLEANUP**

|       |  |
|-------|--|
| Sec.  |  |
| 3901. | Findings and purposes. <ol style="list-style-type: none"> <li>(a) Findings.</li> <li>(b) Purposes.</li> </ol>  |
| 3902. | Definitions.   |
| 3903. | Inventory of open dumps. <ol style="list-style-type: none"> <li>(a) Study and inventory.</li> <li>(b) Annual reports.</li> <li>(c) 10-year plan.</li> </ol>                    |
| 3904. | Authority of Director of Indian Health Service. <ol style="list-style-type: none"> <li>(a) Reservation inventory.</li> <li>(b) Assistance.</li> <li>(c) Conditions.</li> </ol> |
| 3905. | Contract authority. <ol style="list-style-type: none"> <li>(a) Authority of Director.</li> <li>(b) Cooperative agreements.</li> </ol>  |
| 3906. | Tribal demonstration project. <ol style="list-style-type: none"> <li>(a) In general.</li> <li>(b) Criteria.</li> <li>(c) Duration of funding for project.</li> </ol>           |
| 3907. | Authorization of appropriations. <ol style="list-style-type: none"> <li>(a) General authorization.</li> <li>(b) Coordination.</li> </ol>                                       |
| 3908. | Disclaimers. <ol style="list-style-type: none"> <li>(a) Authority of Director.</li> <li>(b) Exempted lands and facilities.</li> <li>(c) Rules of construction.</li> </ol>      |

**§ 3901. Findings and purposes****(a) Findings**

The Congress finds that—

(1) there are at least 600 open dumps on Indian and Alaska Native lands;

(2) these dumps threaten the health and safety of residents of Indian and Alaska Native lands and contiguous areas;