

§ 467f-2. 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 non-Federal sponsors for rehabilitation of eligible high hazard potential dams.

(b) Eligible activities

A grant awarded under this section for a project may be used 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 non-Federal sponsor 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 an eligible high hazard potential dam to a non-Federal sponsor that submits an application for the grant in accordance with the regulations prescribed by the Administrator.

(B) Project grant agreement

The Administrator shall enter into a project grant agreement with the non-Federal sponsor to establish the terms of the grant and the project, including the amount of the grant.

(C) Grant assurance

As part of a project grant agreement under subparagraph (B), the Administrator shall require the non-Federal sponsor to provide an assurance, with respect to the dam to be rehabilitated under the project, that the owner of the dam has developed and will carry out a plan for maintenance of the dam during the expected life of the dam.

(D) Limitation

A grant provided under this section shall not exceed 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 for a project shall be approved by the relevant State dam safety agency.

(2) Non-Federal sponsor requirements

To receive a grant under this section, the non-Federal sponsor shall—

- (A) participate in, and comply with, all applicable Federal flood insurance programs;
- (B) have 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 50-year period 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 5196(j)(9) of title 42 (as in effect on December 16, 2016) 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.

(e) Floodplain management plans

(1) In general

As a condition of receipt of assistance under this section, the non-Federal sponsor 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 1 year after the date of execution of a project agreement for assistance under this section; and
- (ii) implemented not later than 1 year 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) Technical support

The Administrator 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 sys-

tem 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, a non-Federal sponsor 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; 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.

(Pub. L. 92-367, §8A, as added Pub. L. 114-322, title IV, §5006(b), Dec. 16, 2016, 130 Stat. 1893.)

REFERENCES IN TEXT

The Disaster Mitigation Act of 2000, referred to in subsec. (d)(2)(B)(ii), is Pub. L. 106-390, Oct. 30, 2000, 114 Stat. 1552. For complete classification of this Act to the Code, see Short Title of 2000 Amendment note set out under section 5121 of Title 42, The Public Health and Welfare, and Tables.

RULEMAKING

Pub. L. 114-322, title IV, §5006(c), Dec. 16, 2016, 130 Stat. 1896, provided that:

“(1) PROPOSED RULEMAKING.—Not later than 90 days after the date of enactment of this Act [Dec. 16, 2016], the Administrator of the Federal Emergency Management Agency shall issue a notice of proposed rulemaking regarding applications for grants of assistance under the amendments made by subsection (b) to the National Dam Safety Program Act (33 U.S.C. 467 et seq.) [enacting this section].

“(2) FINAL RULE.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall promulgate a final rule regarding the amendments described in paragraph (1).”

REHABILITATION OF CORPS OF ENGINEERS CONSTRUCTED DAMS

Pub. L. 114-322, title I, §1177, Dec. 16, 2016, 130 Stat. 1674, as amended by Pub. L. 115-270, title I, §1132, Oct. 23, 2018, 132 Stat. 3781, provided that:

“(a) IN GENERAL.—If the Secretary [of the Army] determines that the project is feasible, the Secretary may carry out a project for the rehabilitation of a dam described in subsection (b).

“(b) ELIGIBLE DAMS.—A dam eligible for assistance under this section is a dam—

- “(1) that has been constructed, in whole or in part, by the Corps of Engineers for flood control purposes;
- “(2) for which construction was completed before 1940;

“(3) that is classified as ‘high hazard potential’ by the State dam safety agency of the State in which the dam is located; and

“(4) that is operated by a non-Federal entity.

“(c) COST SHARING.—Non-Federal interests shall provide 35 percent of the cost of construction of any project carried out under this section, including provision of all land, easements, rights-of-way, and necessary relocations.

“(d) AGREEMENTS.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary [of the Army]—

“(1) to pay the non-Federal share of the costs of construction under subsection (c); and

“(2) to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

“(e) COST LIMITATION.—The Secretary shall not expend more than \$40,000,000 for a project at any single dam under this section.

“(f) FUNDING.—There is authorized to be appropriated to carry out this section \$40,000,000 for each of fiscal years 2017 through 2026.”

§ 467g. 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.

(Pub. L. 92-367, § 9, as added Pub. L. 104-303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3692; amended Pub. L. 107-310, § 4, Dec. 2, 2002, 116 Stat. 2453; Pub. L. 113-121, title III, § 3001(a)(1), June 10, 2014, 128 Stat. 1282.)

PRIOR PROVISIONS

A prior section 467g, Pub. L. 92-367, § 8, as added Pub. L. 99-662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4261, set out the requisite features of State dam safety programs and provided for program approval and periodic review, prior to repeal by Pub. L. 104-303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 9 of Pub. L. 92-367 was classified to section 467h of this title prior to repeal by Pub. L. 104-303.

AMENDMENTS

2014—Pub. L. 113-121 substituted “Administrator” for “Director” in introductory provisions of subsec. (a) and in subsec. (b).

2002—Subsec. (a). Pub. L. 107-310, § 4(1), in introductory provisions, substituted “in cooperation with the Board” for “in cooperation with ICODS” and inserted “and support” after “develop”.

Subsec. (a)(3), (4). Pub. L. 107-310, § 4(2)-(4), added pars. (3) and (4).

§ 467g-1. 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.

(Pub. L. 92-367, § 10, as added Pub. L. 107-310, § 5(2), Dec. 2, 2002, 116 Stat. 2453; amended Pub. L. 113-121, title III, § 3001(a)(1), June 10, 2014, 128 Stat. 1282.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 92-367 was renumbered section 12, and is classified to section 467h of this title.

Another prior section 10 of Pub. L. 92-367 was classified to section 467i of this title prior to repeal by Pub. L. 104-303.

AMENDMENTS

2014—Pub. L. 113-121 substituted “Administrator” for “Director”.

§ 467g-2. 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.

(Pub. L. 92-367, § 11, as added Pub. L. 113-121, title III, § 3001(d)(2), June 10, 2014, 128 Stat. 1283.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 92-367 was renumbered section 12, and is classified to section 467h of this title.

Another prior section 11 of Pub. L. 92-367 was classified to section 467j of this title prior to repeal by Pub. L. 104-303.

§ 467h. 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.

(Pub. L. 92-367, § 12, formerly § 10, as added Pub. L. 104-303, title II, § 215(c)(8), Oct. 12, 1996, 110 Stat. 3692; renumbered § 11 and amended Pub. L. 107-310, §§ 5(1), 6, Dec. 2, 2002, 116 Stat. 2453; renumbered § 12 and amended Pub. L. 113-121, title III, § 3001(a)(1), (d)(1), June 10, 2014, 128 Stat. 1282, 1283.)

PRIOR PROVISIONS

A prior section 467h, Pub. L. 92-367, § 9, as added Pub. L. 99-662, title XII, § 1201(b), Nov. 17, 1986, 100 Stat. 4262, provided for creation of National Dam Safety Review Board, prior to repeal by Pub. L. 104-303, title II, § 215(c)(2), Oct. 12, 1996, 110 Stat. 3685.

A prior section 12 of Pub. L. 92-367 was renumbered section 13, and is classified to section 467i of this title.

Another prior section 12 of Pub. L. 92-367 was classified to section 467k of this title prior to repeal by Pub. L. 104-303.

AMENDMENTS

2014—Pub. L. 113-121, § 3001(a)(1), substituted “Administrator” for “Director” in two places.

2002—Pub. L. 107-310, § 6, struck out subsec. designations and headings for subsecs. (a) and (b) and text of subsec. (a) which read as follows: “Not later than 180 days after October 12, 1996, the Director shall report to Congress on the availability of dam insurance and make recommendations concerning encouraging greater availability.”

§ 467i. Statutory construction

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