

91-224, title I, §102, 84 Stat. 91, which provided for studies and analysis of costs estimates and reports to Congress, was transferred to section 1175 of this title.

§§ 466m, 466n. Repealed. Pub. L. 91-224, title I, § 102, Apr. 3, 1970, 84 Stat. 91

Section 466m, act June 30, 1948, ch. 758, §17, as added Nov. 3, 1966, Pub. L. 89-753, title II, §210, 80 Stat. 1252, authorized a study by Secretary of the Interior, and a report to Congress not later than July 1, 1967, of the extent of pollution of the navigable waters of the United States from litter and sewage deposited into such waters from watercraft.

Section 466n, act June 30, 1948, ch. 758, §18, as added Nov. 3, 1966, Pub. L. 89-753, title II, §210, 80 Stat. 1252, authorized a study by Secretary of the Interior, and a report to Congress not later than Jan. 30, 1968, relating to incentives, including, but not limited to, tax and other financial incentives, to assist in the construction of industrial anti-pollution facilities.

SUBCHAPTER VII—DAM INSPECTION PROGRAM

§ 467. Definitions

In this subchapter, 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 467f(f) of this title.

(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 hydropower 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 467e of this title.

(10) Eligible subrecipient

The term “eligible subrecipient”, in the case of a project receiving assistance under section 467f-2 of this title, includes—

(A) a governmental organization; and

(B) a nonprofit organization.

(11) Program

The term “Program” means the national dam safety program established under section 467f of this title.

(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 467f(e) of this title.

(16) United States

The term “United States”, when used in a geographical sense, means all of the States.

(Pub. L. 92-367, § 2, as added Pub. L. 104-303, title II, § 215(c)(4), Oct. 12, 1996, 110 Stat. 3685; amended Pub. L. 107-310, § 3(e)(2), Dec. 2, 2002, 116 Stat. 2451; Pub. L. 113-121, title III, § 3001(a), June 10, 2014, 128 Stat. 1282; Pub. L. 114-322, title IV, § 5006(a), Dec. 16, 2016, 130 Stat. 1892; Pub. L. 116-260, div. AA, title I, § 132(a), Dec. 27, 2020, 134 Stat. 2645.)

Editorial Notes

PRIOR PROVISIONS

A prior section 467, Pub. L. 92-367, § 1, Aug. 8, 1972, 86 Stat. 506; Pub. L. 99-662, title XII, § 1201(a), Nov. 17, 1986, 100 Stat. 4260, defined term “dam” as used in this subchapter, prior to repeal by Pub. L. 104-303, § 215(c)(1).

A prior section 2 of Pub. L. 92-367 was renumbered section 3 by section 215(c)(3) of Pub. L. 104-303 and is classified to section 467a of this title.

AMENDMENTS

2020—Par. (4)(A)(iii). Pub. L. 116-260, § 132(a)(1)(A)(i), added cl. (iii) and struck out former cl. (iii) which read as follows: “has an emergency action plan approved by the relevant State dam safety agency; and”.

Par. (4)(A)(iv), (v). Pub. L. 116-260, § 132(a)(1)(A)(ii), added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: “the State in which the dam is located determines—

“(I) fails to meet minimum dam safety standards of the State; and

“(II) poses an unacceptable risk to the public.”

Par. (4)(B)(i). Pub. L. 116-260, § 132(a)(1)(B), inserted “under a hydropower project with an authorized installed capacity of greater than 1.5 megawatts” after “dam”.

Par. (10). Pub. L. 116-260, § 132(a)(2), substituted “Eligible subrecipient” for “Non-Federal sponsor” in heading and “The term ‘eligible subrecipient’” for “The term ‘non-Federal sponsor’” in introductory provisions.

2016—Par. (4). Pub. L. 114-322, § 5006(a)(2), added par. (4). Former par. (4) redesignated (5).

Pars. (5) to (9). Pub. L. 114-322, § 5006(a)(1), redesignated pars. (4) to (8) as (5) to (9), respectively. Former par. (9) redesignated (11).

Par. (10). Pub. L. 114-322, § 5006(a)(3), added par. (10). Former par. (10) redesignated (13).

Par. (11). Pub. L. 114-322, § 5006(a)(1), redesignated par. (9) as (11). Former par. (11) redesignated (14).

Par. (12). Pub. L. 114-322, § 5006(a)(4), added par. (12). Former par. (12) redesignated (15).

Pars. (13) to (16). Pub. L. 114-322, § 5006(a)(1), redesignated pars. (10) to (13) as (13) to (16), respectively.

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

Par. (1). Pub. L. 113-121, § 3001(a)(2)(C), added par. (1). Former par. (1) redesignated (2).

Par. (2). Pub. L. 113-121, § 3001(a)(2)(B), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Par. (3). Pub. L. 113-121, § 3001(a)(2)(A), (B), redesignated par. (2) as (3) and struck out former par. (3). Prior to amendment, text read as follows: “The term ‘Administrator’ means the Administrator of FEMA.”

2002—Par. (1). Pub. L. 107-310, § 3(e)(2)(A), substituted “section 467f(f)” for “section 467f(h)”.

Par. (12). Pub. L. 107-310, § 3(e)(2)(B), substituted “section 467f(e)” for “section 467f(f)”.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-460, § 1(a), Dec. 22, 2006, 120 Stat. 3401, provided that: “This section [amending sections 467d, 467f, and 467j of this title] may be cited as the ‘Dam Safety Act of 2006.’”

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-310, § 1(a), Dec. 2, 2002, 116 Stat. 2450, provided that: “This Act [enacting section 467g-1 of this title and amending this section and sections 467e to 467g and 467h to 467j of this title] may be cited as the ‘Dam Safety and Security Act of 2002.’”

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-662, title XII, § 1206, Nov. 17, 1986, 100 Stat. 4264, provided that: “This title [enacting sections 467f to 467m and 2311 of this title and amending this section and sections 467a and 467b of this title] may be cited as the ‘Dam Safety Act of 1986.’”

SHORT TITLE

Pub. L. 92-367, § 1, as added by Pub. L. 104-303, title II, § 215(c)(1), Oct. 12, 1996, 110 Stat. 3685, provided that: “This Act [enacting this subchapter] may be cited as the ‘National Dam Safety Program Act.’”

TRANSFER OF FUNCTIONS

For transfer of all functions, personnel, assets, components, authorities, grant programs, and liabilities of the Federal Emergency Management Agency, including the functions of the Under Secretary for Federal Emergency Management relating thereto, to the Federal Emergency Management Agency, see section 315(a)(1) of Title 6, Domestic Security.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Administrator of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(1) and sections 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONGRESSIONAL STATEMENT OF PURPOSE; NATIONAL DAM SAFETY PROGRAM

Pub. L. 104-303, title II, § 215(a), Oct. 12, 1996, 110 Stat. 3685, provided that: “The purpose of this section [enacting this section and sections 467d to 467j] of this title, amending sections 467a to 467c of this title and section 3802 of Title 25, Indians, repealing former sections 467 and 467d to 467m of this title, and enacting provisions set out as notes under this section] is to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program to bring together the expertise and resources of the Federal and non-Federal communities in achieving na-

tional dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is it the intent of this section to mandate State participation in the grant assistance program to be established under this section.”

EFFECT ON OTHER DAM SAFETY PROGRAMS

Pub. L. 104-303, title II, §215(b), Oct. 12, 1996, 110 Stat. 3685, provided that: “Nothing in this section (including the amendments made by this section) [enacting this section and sections 467d to 467j of this title, amending sections 467a to 467c of this title and section 3802 of Title 25, Indians, repealing former sections 467 and 467d to 467m of this title, and enacting provisions set out as notes under this section] shall preempt or otherwise affect any dam safety program of a Federal agency other than the Federal Emergency Management Agency, including any program that regulates, permits, or licenses any activity affecting a dam.”

§ 467a. 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 [16 U.S.C. 791a et seq.], (3) dams which have been inspected within the twelve-month period immediately prior to August 8, 1972, 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 Energy Regulatory 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.

(Pub. L. 92-367, §3, formerly §2, Aug. 8, 1972, 86 Stat. 506; Pub. L. 95-91, title IV, §402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583; renumbered §3 and amended Pub. L. 104-303, title II, §215(c)(3), (5), Oct. 12, 1996, 110 Stat. 3685, 3687; Pub. L. 113-121, title III, §3001(b), June 10, 2014, 128 Stat. 1282.)

Editorial Notes

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended,

which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

PRIOR PROVISIONS

A prior section 3 of Pub. L. 92-367 was renumbered section 4 and is classified to section 467b of this title.

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113-121 substituted “maintenance, condition, or provisions for emergency operations” for “or maintenance”.

1996—Pub. L. 104-303 inserted section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

“Federal Energy Regulatory Commission” substituted in text for “Federal Power Commission” on authority of Pub. L. 95-91, title IV, §402(a)(1)(A), Aug. 4, 1977, 91 Stat. 583, which is classified to section 7172(a)(1)(A) of Title 42, The Public Health and Welfare.

§ 467b. 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.

(Pub. L. 92-367, §4, formerly §3, Aug. 8, 1972, 86 Stat. 507; Pub. L. 99-662, title XII, §1204, Nov. 17, 1986, 100 Stat. 4263; renumbered §4 and amended Pub. L. 104-303, title II, §215(c)(3), (6), Oct. 12, 1996, 110 Stat. 3685, 3687.)

Editorial Notes

PRIOR PROVISIONS

A prior section 4 of Pub. L. 92-367 was renumbered section 5 and is classified to section 467c of this title.

AMENDMENTS

1996—Pub. L. 104-303 inserted section catchline.

1986—Pub. L. 99-662 inserted “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.”

§ 467c. 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