

*One Hundred Third Congress*

*of the*

*United States of America*

**AT THE SECOND SESSION**

Begun and held at the City of Washington on Tuesday,

the twenty-fifth day of January, one thousand nine hundred and ninety-four

An Act

To provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Indian Dams Safety Act of 1994'.

**SEC. 2. 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.

**SEC. 3. DEFINITIONS.**

As used in this Act:

- (1) The term 'Bureau' means the Bureau of Indian Affairs.
- (2) The term 'dam' has the same meaning given such term by the first section of Public Law 92-367 (33 U.S.C. 467).
- (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, 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.

#### **SEC. 4. 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) 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 the date of the enactment of this Act 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 the date of enactment of this Act 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) 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).

(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).

(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 Act 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 Act 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 Act, 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) 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. 450b(e))), as amended, to carry out the Dam Safety Maintenance and Repair Program established under this Act.

(i) **ANNUAL REPORT**- The Secretary shall submit an annual report on the implementation of this Act. 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, United States Code, 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.

**SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.