

and 701b of this title, and to supplement the preliminary examinations and surveys which the Secretary of the Army has heretofore been, or is hereafter, authorized and directed to make of waterways with a view to the control of their floods, the Secretary of Agriculture be, and he is, authorized and directed to cause preliminary examinations and surveys to be made for run-off and water-flow retardation and soil-erosion prevention on the watersheds of said waterways, the costs thereof to be paid from appropriations heretofore or hereafter made for such purposes.

(Aug. 28, 1937, ch. 877, §3, 50 Stat. 877; Jan. 19, 1948, ch. 2, §1, 62 Stat. 4; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

AMENDMENTS

1948—Act Jan. 19, 1948, inserted “or is hereafter” after “heretofore been” to make section applicable to future preliminary surveys and examinations.

CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted “Title 10, Armed Forces” which in sections 3010 to 3013 continued Department of the Army under administrative supervision of Secretary of the Army.

§ 701b-7. Supplemental reports to Senate Environment and Public Works Committee and House Public Works Committee

After the Secretary of Agriculture has submitted to Congress a regular or formal report made on any examination or survey, pursuant to the Flood Control Act approved June 22, 1936, as amended and supplemented, a supplemental, additional, or review report or estimate may be made if authorized by law or by resolution of the Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate.

(Jan. 19, 1948, ch. 2, §2, 62 Stat. 4; Pub. L. 103-437, §12(d), Nov. 2, 1994, 108 Stat. 4590.)

REFERENCES IN TEXT

The Flood Control Act approved June 22, 1936, as amended and supplemented, referred to in text, is act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, which to the extent classified to the Code enacted sections 701a, 701b, 701c, 701d to 701f, and 701h of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1994—Pub. L. 103-437 substituted “Committee on Public Works and Transportation of the House of Representatives or the Committee on Environment and Public Works of the Senate” for “Committee on Public Works of the House of Representatives or the Committee on Public Works of the Senate”.

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure 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.

§ 701b-8. Submission of report by Chief of Engineers

It is declared to be the policy of the Congress that the following provisions shall be observed:

No project or any modification not authorized, of a project for flood control or rivers and harbors, shall be authorized by the Congress unless a report for such project or modification has been previously submitted by the Chief of Engineers, United States Army, in conformity with existing law.

(Sept. 3, 1954, ch. 1264, title II, §202, 68 Stat. 1256.)

CODIFICATION

Section comprises last two paragraphs of section 202 of act Sept. 3, 1954. First paragraph of section 202 is set out as a note under section 701-1 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior acts:

May 17, 1950, ch. 188, title II, §202, 64 Stat. 170.
June 30, 1948, ch. 771, title II, §202, 62 Stat. 1175.
July 24, 1946, ch. 596, §2, 60 Stat. 641.

§ 701b-8a. Discontinuance of preliminary examination reports

For preliminary examinations and surveys authorized in previous river and harbor and flood control Acts, the Secretary of the Army is directed to cause investigations and reports for flood control and allied purposes, to be prepared under the supervision of the Chief of Engineers in the form of survey reports, and that preliminary examination reports shall no longer be required to be prepared.

(Pub. L. 85-500, title II, §208, July 3, 1958, 72 Stat. 319.)

REFERENCES IN TEXT

Previous river and harbor and flood-control Acts, referred to in text, means those acts prior to the River and Harbor Act of 1958 and the Flood Control Act of 1958, titles I and II of Pub. L. 85-500.

§ 701b-9. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures

On and after July 31, 1947, no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include transportation, lodging, and subsistence on inspection trips of Federal and State officials, having a public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures.

(July 31, 1947, ch. 411, §1, 61 Stat. 688.)

CODIFICATION

Section is also set out as section 575 of this title.

Section was formerly classified to sections 190a and 199 of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

§ 701b-10. Revolving fund; establishment; availability; reimbursement; transfer of funds; limitation

There is established a revolving fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of the plant and equipment of the Corps of Engineers used in civil works functions, including acquisition of plant and equipment, maintenance, repair, and purchase, operation, and maintenance of not to exceed four aircraft at any one time, temporary financing of services finally chargeable to appropriations for civil works functions, and the furnishing of facilities and services for military functions of the Department of the Army and other Government agencies and private persons, as authorized by law, \$100; and in addition, the Secretary of the Army is authorized to provide capital for the fund by capitalizing the present inventories, plant and equipment of the civil works functions of the Corps of Engineers. The fund shall be credited with reimbursements or advances for the cost of equipment, facilities, and services furnished, at rates which shall include charges for overhead and related expenses, depreciation of plant and equipment, and accrued leave: *Provided*, That on July 1, 1953, (1) the fund shall assume the assets, liabilities, and obligations of the Plant accounts, as carried on the records of the Corps of Engineers as of June 30, 1953, under the appropriations for "Maintenance and improvement of existing river and harbor works", "Flood control, general", and "Flood control, Mississippi River and tributaries", and (2) there shall be transferred from said appropriations to the fund amounts equivalent to the unexpended cash balances of the Plant accounts on June 30, 1953: *Provided further*, That the total capital of said fund shall not exceed \$140,000,000.

(July 27, 1953, ch. 245, § 101, 67 Stat. 199.)

CODIFICATION

Section is also set out as section 576 of this title. Section was formerly classified to section 190b of Title 10 prior to the general revision and enactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

RETENTION OF THREE OPERATIONAL AIRCRAFT; NOTICE OF INTENDED USE OUTSIDE UNITED STATES

For provision relating to retention, use, and disposal of three operational aircraft by Chief of Engineers, see section 101(d) [title I, § 110] of Pub. L. 100-202, set out as a note under section 576 of this title.

§ 701b-11. Flood protection projects

(a) General considerations; nonstructural alternatives

In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for rec-

reational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages.

(b) Non-Federal participation through nonstructural alternatives; limitation

Where a nonstructural alternative is recommended, non-Federal participation shall be comparable to the value of lands, easements, and rights-of-way which would have been required of non-Federal interests under section 701c of this title, for structural protection measures, but in no event shall exceed 20 per centum of the project costs.

(Pub. L. 93-251, title I, § 73, Mar. 7, 1974, 88 Stat. 32.)

NONSTRUCTURAL FLOOD CONTROL POLICY

Pub. L. 104-303, title II, § 202(d), Oct. 12, 1996, 110 Stat. 3675, provided that:

"(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying nonstructural flood control measures as alternatives to structural measures.

"(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on the findings of the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review."

§ 701b-12. Floodplain management requirements

(a) Compliance with floodplain management and insurance programs

Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

(b) Floodplain management plans

Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) of this section applies, the non-Federal interest shall prepare a floodplain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

(c) Guidelines

(1) In general

The Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b) of this section.

(2) Required elements

The guidelines developed under paragraph (1) shall—

(A) address potential measures, practices, and policies to be undertaken by non-Federal interests to to¹ reduce loss of life, inju-

¹ So in original.