

fined in paragraph (a) of this section), and to the Secretary of the Army, be subject to the same provisions regarding investigations, plans, proposals, and reports as prescribed in paragraph (a) of this section for the Chief of Engineers and the Secretary of the Army. In the event a submission of views and recommendations, made by an affected State or by the Secretary of the Army pursuant to said provisions, sets forth objections to the plans or proposals covered by the report of the Secretary of the Interior, the proposed works shall not be deemed authorized except upon approval by an Act of Congress; and section 485h(a) of title 43 and section 590z-1(a) of title 16 are amended accordingly.

(Dec. 22, 1944, ch. 665, § 1, 58 Stat. 887; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 104-303, title II, § 223, Oct. 12, 1996, 110 Stat. 3697; Pub. L. 114-322, title I, § 1136(a), Dec. 16, 2016, 130 Stat. 1656.)

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-322 inserted “and shall be made publicly available” after “House or Senate document”.

1996—Par. (a). Pub. L. 104-303 substituted “Within 30 days” for “Within ninety days” and “30-day period” for “ninety-day period”.

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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

APPLICABILITY OF SECTION TO PROJECTS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 202, Aug. 13, 1968, 82 Stat. 739, provided that: “The provisions of section 1 of the Act of December 22, 1944 (Public Law Numbered 534, Seventy-eighth Congress, second session) [this section], shall govern with respect to projects authorized in this Act [Pub. L. 90-483], and the procedures therein set forth with respect to plans, proposals, or reports for works of improvement for navigation or flood control and for irrigation and purposes incidental thereto shall apply as if herein set forth in full.”

Similar provisions were contained in the following prior acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 202, 80 Stat. 1418.
Oct. 27, 1965, Pub. L. 89-298, title II, § 203, 79 Stat. 1074.
Sept. 3, 1954, ch. 1264, title II, § 202, 68 Stat. 1256.
May 17, 1950, ch. 188, title II, § 202, 64 Stat. 170.

GLENDON UNIT, WYOMING, MISSOURI RIVER BASIN PROJECT

Joint Res. July 16, 1954, ch. 532, § 2, 68 Stat. 486, provided, with respect to the Glendo unit (dam and reservoir), Missouri River Basin Project, at the Glendo site on the North Platte River in Wyoming, for waiver of the provisions of subsec. (c) of this section. Section 1 of the Joint Resolution provided for the construction and operation of such unit by the Secretary of the Interior.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 701a. Declaration of policy of 1936 act

It is recognized that destructive floods upon the rivers of the United States, upsetting or-

derly processes and causing loss of life and property, including the erosion of lands, and impairing and obstructing navigation, highways, railroads, and other channels of commerce between the States, constitute a menace to national welfare; that it is the sense of Congress that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with States, their political subdivisions, and localities thereof; that investigations and improvements of rivers and other waterways, including watersheds thereof, for flood-control purposes are in the interest of the general welfare; that the Federal Government should improve or participate in the improvement of navigable waters or their tributaries, including watersheds thereof, for flood-control purposes if the benefits to whomsoever they may accrue are in excess of the estimated costs, and if the lives and social security of people are otherwise adversely affected.

(June 22, 1936, ch. 688, § 1, 49 Stat. 1570.)

§ 701a-1. “Flood control” defined; jurisdiction of Federal investigations

The words “flood control” as used in section 701a of this title, shall be construed to include channel and major drainage improvements and flood prevention improvements for protection from groundwater-induced damages, and Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, and Federal investigations of watersheds and measures for run-off and water-flow retardation and soil-erosion prevention on watersheds shall be under the jurisdiction of and shall be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture, except as otherwise provided by Act of Congress.

(Dec. 22, 1944, ch. 665, § 2, 58 Stat. 889; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 99-662, title IV, § 403, Nov. 17, 1986, 100 Stat. 4133.)

AMENDMENTS

1986—Pub. L. 99-662 inserted “and flood prevention improvements for protection from groundwater-induced damages” after “drainage improvements”.

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.

SAVINGS PROVISION

Authority of Secretary of Agriculture under this section as unaffected by repeal of Secretary’s authority under section 701b of this title, see section 7 of act Aug. 4, 1954, set out as a note under section 701b of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

§ 701b. Supervision of Secretary of the Army; reclamation projects unaffected

Federal investigations and improvements of rivers and other waterways for flood control and allied purposes shall be under the jurisdiction of and shall be prosecuted by the Department of the Army under the direction of the Secretary of the Army and supervision of the Chief of Engineers, except as otherwise provided by Act of Congress; and in his reports upon examinations and surveys, the Secretary of the Army shall be guided as to flood-control measures by the principles set forth in section 701a of this title in the determination of the Federal interests involved: *Provided*, That the foregoing grant of authority shall not interfere with investigations and river improvements incident to reclamation projects that may now be in progress or may be hereafter undertaken by the Bureau of Reclamation of the Interior Department pursuant to any general or specific authorization of law.

(June 22, 1936, ch. 688, §2, 49 Stat. 1570; June 28, 1938, ch. 795, §1, 52 Stat. 1215; Aug. 18, 1941, ch. 377, §1, 55 Stat. 638; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Aug. 4, 1954, ch. 656, §7, 68 Stat. 668.)

AMENDMENTS

1954—Act Aug. 4, 1954, repealed provisions conferring authority on the Department of Agriculture under the direction of the Secretary of Agriculture to make preliminary examinations and surveys and to prosecute works of improvement for runoff and waterflow retardation and soil erosion prevention on the watersheds of rivers and other waterways.

1941—Act Aug. 18, 1941, reenacted without change portion of section preceding semicolon.

1938—Act June 28, 1938, reenacted without change portion of section preceding semicolon.

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.

SAVINGS PROVISION

Section 7 of act Aug. 4, 1954, which amended this section by repealing provisions relating to the Department of Agriculture, provides in part that: "(a) the authority of that Department of Agriculture, under the direction of the Secretary, to prosecute the works of improvement for runoff and waterflow retardation and soil erosion prevention authorized to be carried out by the Department by the act of December 22, 1944 (58 Stat. 887), as amended [section 701a-1 of this title], and (b) the authority of the Secretary of Agriculture to undertake emergency measures for runoff retardation and soil erosion prevention authorized to be carried out by section 7 of the act of June 28, 1938 (52 Stat. 1215), as amended by section 216 of the act of May 17, 1950 (64 Stat. 163) [section 701b-1 of this title], shall not be affected by the provisions of this section."

RISK-BASED ANALYSIS METHODOLOGY

Pub. L. 104-303, title II, §202(h), Oct. 12, 1996, 110 Stat. 3676, provided that:

"(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences to

conduct a study of the Corps of Engineers' use of risk-based analysis for the evaluation of hydrology, hydraulics, and economics in flood damage reduction studies. The study shall include—

"(A) an evaluation of the impact of risk-based analysis on project formulation, project economic justification, and minimum engineering and safety standards; and

"(B) a review of studies conducted using risk-based analysis to determine—

"(i) the scientific validity of applying risk-based analysis in these studies; and

"(ii) the impact of using risk-based analysis as it relates to current policy and procedures of the Corps of Engineers.

"(2) REPORT.—Not later than 18 months after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall submit to Congress a report on the results of the study under paragraph (1), as well as such recommendations as the Secretary considers appropriate.

"(3) LIMITATION ON USE OF METHODOLOGY.—During the period beginning on the date of the enactment of this Act [Oct. 12, 1996] and ending 18 months after that date, if requested by a non-Federal interest, the Secretary shall refrain from using any risk-based technique required under the studies described in paragraph (1) for the evaluation and design of a project.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$250,000 to carry out this subsection."

§ 701b-1. Transfer of jurisdiction in certain cases to Department of Agriculture

In order to effectuate the policy declared in sections 701a and 701b of this title, and to correlate the program for the improvement of rivers and other waterways by the Department of the Army with the program for the improvement of watersheds by the Department of Agriculture, works of improvement for measures of run-off and water-flow retardation and soil-erosion prevention on the watersheds of waterways, for which works of improvement for the benefit of navigation and the control of destructive floodwaters and other provisions have been adopted and authorized to be prosecuted under the direction of the Secretary of the Army and supervision of the Chief of Engineers, are authorized to be prosecuted by the Department of Agriculture under the direction of the Secretary of Agriculture and in accordance with plans approved by him. The Secretary of Agriculture is authorized in his discretion to undertake such emergency measures for run-off retardation and soil-erosion prevention as may be needed to safeguard lives and property from floods and the products of erosion on any watershed whenever fire or any other natural element or force has caused a sudden impairment of that watershed: *Provided*, That not to exceed \$300,000 out of any funds heretofore or hereafter appropriated for the prosecution by the Secretary of Agriculture of works of improvement or measures for run-off and water-flow retardation and soil-erosion prevention on watersheds may be expended during any one fiscal year for such emergency measures. For prosecuting said work and measures there is authorized to be appropriated the sum of \$10,000,000 to be expended at the rate of \$2,000,000 per annum during the five-year period ending June 30, 1944: *Provided*, That such works and measures which are herein authorized to be prosecuted by the Department of Agriculture may be carried out on the watersheds of the Rio