

plan that provides a higher level of protection than a flood risk management project authorized under this Act if the Secretary determines that—

- (1) the plan is technically feasible and environmentally acceptable; and
- (2) the benefits of the plan exceed the costs of the plan.

(b) Non-Federal cost share

If the Secretary carries out a locally preferred plan under subsection (a), the Federal share of the cost of the project shall be not greater than the share as provided by law for elements of the national economic development plan.

(Pub. L. 113–121, title I, §1036, June 10, 2014, 128 Stat. 1234.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), is Pub. L. 113–121, June 10, 2014, 128 Stat. 1193, known as the Water Resources Reform and Development Act of 2014. For complete classification of this Act to the Code, see Short Title note set out under section 2201 of this title and Tables.

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

§ 701b–16. Management of flood risk reduction projects

(a) In general

If 2 or more flood control projects are located within the same geographic area, the Secretary shall, at the request of the non-Federal interests for the affected projects, consider those projects as a single program for budgetary or project management purposes, if the Secretary determines that doing so would not be incompatible with the authorized project purposes.

(b) Cost share

(1) In general

If any work on a project to which subsection (a) applies is required solely because of impacts to that project from a navigation project, the cost of carrying out that work shall be shared in accordance with the cost-sharing requirements for the navigation project.

(2) Use of amounts

Work described in paragraph (1) may be carried out using amounts made available under subsection (a).

(Pub. L. 113–121, title III, §3012, June 10, 2014, 128 Stat. 1284.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance

After June 22, 1936, no money appropriated under authority of section 701f of this title shall

be expended on the construction of any project until States, political subdivisions thereof, or other responsible local agencies have given assurances satisfactory to the Secretary of the Army that they will (a) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of the project, except as otherwise provided herein; (b) hold and save the United States free from damages due to the construction works; (c) maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That the construction of any dam authorized herein, may be undertaken without delay when the dam site has been acquired and the assurances prescribed herein have been furnished, without awaiting the acquisition of the easements and rights-of-way required for the reservoir area: *And provided further*, That whenever expenditures for lands, easements, and rights-of-way by States, political subdivisions thereof, or responsible local agencies for any individual project or useful part thereof shall have exceeded the present estimated construction cost therefor, the local agency concerned may be reimbursed one-half of its excess expenditures over said estimated construction cost: *And provided further*, That when benefits of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, the Secretary of the Army with the consent of the State wherein the same are located may acquire the necessary lands, easements, and rights-of-way for said project or part thereof after he has received from the States, political subdivisions thereof, or responsible local agencies benefited the present estimated cost of said lands, easements, and rights-of-way, less one-half the amount by which the estimated cost of these lands, easements, and rights-of-way exceeds the estimated construction cost corresponding thereto: *And provided further*, That the Secretary of the Army shall determine the proportion of the present estimated cost of said lands, easements, and rights-of-way that each State, political subdivision thereof, or responsible local agency should contribute in consideration for the benefits to be received by such agencies: *And provided further*, That whenever not less than 75 per centum of the benefits as estimated by the Secretary of the Army of any project or useful part thereof accrue to lands and property outside of the State in which said project or part thereof is located, provision (c) of this section shall not apply thereto; nothing herein shall impair or abridge the powers now existing in the Department of the Army with respect to navigable streams: *And provided further*, That nothing herein shall be construed to interfere with the completion of any reservoir or flood control work authorized by the Congress and now under way.

(d) As a condition to the extending of any benefits, in prosecuting measures for run-off and water-flow retardation and soil erosion prevention authorized by Act of Congress pursuant to the policy declared in section 701a of this title, to any lands not owned or controlled by the United States or any of its agencies, the Sec-

retary of Agriculture may, insofar as he may deem necessary for the purposes of such Act, require—

(1) The enactment and reasonable safeguards for the enforcement of State and local laws imposing suitable permanent restrictions on the use of such lands and otherwise providing for run-off and waterflow retardation and soil-erosion prevention;

(2) Agreements or covenants as to the permanent use of such lands; and

(3) Contributions in money, services, materials, or otherwise to any operations conferring such benefits.

(June 22, 1936, ch. 688, § 3, 49 Stat. 1571; Aug. 28, 1937, ch. 877, § 4, 50 Stat. 877; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

Herein, referred to in text, means act June 22, 1936, ch. 688, 49 Stat. 1570, as amended, popularly known as the Flood Control Act of June 22, 1936, 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. Portions of section 5 of act June 22, 1936, enumerating certain dams to be constructed, were not classified to the Code.

AMENDMENTS

1937—Act Aug. 28, 1937, added subsec. (d).

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 FLOOD CONTROL WORKS AUTHORIZED BY FLOOD CONTROL ACTS

Pub. L. 90-483, title II, § 201, Aug. 13, 1968, 82 Stat. 739, provided that: "Section 3 of the Act approved June 22, 1936 (Public Law Numbered 738, Seventy-fourth Congress) [this section], as amended by section 2 of the Act approved June 28, 1938 (Public Law Numbered 761, Seventy-fifth Congress) [section 701c-1 of this title], shall apply to all works authorized in this title except that for any channel improvement or channel rectification project, provisions (a), (b), and (c) of section 3 of said Act of June 22, 1936 [this section], shall apply thereto, except as otherwise provided by law. The authorization for any flood control project herein authorized by this Act [Pub. L. 90-483] requiring local cooperation shall expire five years from the date on which local interests are notified in writing by the Secretary of the Army or his designee of the requirements of local cooperation, unless said interests shall within said time furnish assurances satisfactory to the Secretary of the Army that the required cooperation will be furnished."

Similar provisions were contained in the following prior acts:

Nov. 7, 1966, Pub. L. 89-789, title II, § 201, 80 Stat. 1418.
 Oct. 27, 1965, Pub. L. 89-298, title II, § 202, 79 Stat. 1074.
 Sept. 3, 1954, ch. 1264, title II, § 201, 68 Stat. 1256.
 May 17, 1950, ch. 188, title II, § 201, 64 Stat. 170.
 June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175.
 July 24, 1946, ch. 596, § 2, 60 Stat. 641.
 Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889.

APPLICATION OF SECTION

Act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, provided that this section, as theretofore amended and therein

further modified, should apply to all flood control projects, except as otherwise specifically provided by law. For modification of this section by that act, see section 701c-1 of this title.

MUSKINGUM RIVER VALLEY

Provisions of act June 28, 1938, ch. 795, § 2, 52 Stat. 1215, referred to above, were extended to the Muskingum River Valley dams and reservoirs by section 4 of act Aug. 11, 1939, ch. 699, 53 Stat. 1414.

§ 701c-1. Acquisition of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies

In case of any dam and reservoir project, or channel improvement or channel rectification project for flood control, herein authorized or heretofore authorized by the Act of June 22, 1936, as amended, and sections 642a, 702a, 702a-1, 702a-2 to 702d, 702e to 702h, 702i to 702m, and 704 of this title, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions of clauses (a), (b), and (c) of section 701c of this title shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other Act, the Secretary of the Army is authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed, from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of the Army and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are located; lands or flowage rights in reservoirs and highway, railway, and utility relocation: *Provided further*, That in all cases of the acquisition hereunder by the United States from the Los Angeles County Flood Control District or the Muskingum Watershed Conservancy District of lands, easements, or rights-of-way, wherein the written opinion of the Attorney General in favor of the validity of the title to such lands, easements, or rights-of-way is or may be required or authorized by law, the Attorney General may, in his discretion, base such opinion upon a certificate of title of the district from which said lands, easements, or rights-of-way are to be acquired accompanied by an agreement, duly executed by the district in conformity with the constitutions and laws of the State where the district in question is situated to indemnify the United States against all claims, liabilities, loss, expenses, and attorneys' fees of whatsoever