

such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or any place adjacent to the same, which in the judgment of said commission, will effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in Executive Document Numbered 267, Fifty-first Congress, second session, and Executive Document Numbered 98, Forty-seventh Congress, first session, as far as they refer to impounding dams, or other restraining works, are adopted, and the same are directed to be made the basis of operations.

(Mar. 1, 1893, ch. 183, §25, 27 Stat. 511.)

#### REFERENCES IN TEXT

Executive Document Numbered 267, referred to in text, contained a report of Lieut. Col. G. H. Mendell, Corps of Engineers, U.S.A., dated Jan. 26, 1882, prepared pursuant to a provision in act June 14, 1880, ch. 211, 21 Stat. 196. Executive Document Numbered 98, also referred to in text, contained a report by a board of engineers created by act Oct. 1, 1888, ch. 1057, 25 Stat. 498.

#### TRANSFER OF FUNCTIONS

California Debris Commission abolished and functions transferred to Secretary of the Army by Pub. L. 99-662, title XI, §1106, Nov. 17, 1986, 100 Stat. 4229, set out as a note under section 661 of this title.

### § 686. Construction of restraining works in conjunction with State

The Secretary of the Army, in expending appropriations in the preparation for and construction of works for the restraining or impounding of mining debris in the State of California, is authorized to enter into an agreement that the contractor shall look solely to the State of California for one-half of such expense, to be paid out of said State's appropriation, and the United States shall in nowise be liable for said one-half.

The Secretary of the Army, in carrying out the provisions of any Act of Congress, providing for the restraining or impounding of mining debris in California, may, in his discretion, when in his judgment the aggregate of appropriations already made by said State and Congress and available therefor are sufficient to complete the same, undertake the works necessary thereto by hired labor and by purchase of supplies and materials therefor, and may accept payments on account thereof as the work progresses under and according to the provisions of the acts of the legislature of said State for such purposes.

(July 1, 1898, ch. 546, §1, 30 Stat. 631; Mar. 3, 1899, ch. 425, §1, 30 Stat. 1148; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section was enacted as part of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899", and not as part of act Mar. 1, 1893, ch. 183, 27 Stat. 507, which comprises this chapter.

As originally enacted the first paragraph read as follows: "The provisions of an Act of Congress, entitled 'An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending

June thirtieth, eighteen hundred and ninety-nine, and for other purposes,' approved July first, eighteen hundred and ninety-eight, authorizing the Secretary of War, in expending certain specified appropriations in the preparation for and construction of certain works for the restraining or impounding of mining debris in the State of California, to enter into a contract or contracts wherein the contractor or contractors shall look solely to that State for one-half of such expense, and that the United States shall in no wise be liable for said one-half, are hereby extended to any appropriations, when made, that may hereafter be made for said purposes."

Act July 1, 1898 authorized Secretary of War, in contracting for construction of certain proposed works, to enter into an agreement that contractor should look solely to California for half of expenses.

#### 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.

### § 687. Use of State dredge and appliances in river and harbor improvements

The Secretary of the Army is authorized to accept from the State of California the use of any dredger, or appliances owned or controlled by said State, conformably to any offer thereof by the said State; and the Secretary of the Army is authorized to use any such dredger or appliances in any river or harbor improvement that may be prosecuted therein by the United States, either on the part of the United States alone or conjointly with said State: *Provided*, That nothing shall be paid to the State of California for the use of said dredger, and that nothing herein contained shall create any liability against the United States.

(Mar. 3, 1899, ch. 425, §1, 30 Stat. 1148; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

#### CODIFICATION

Section was enacted as part of act Mar. 3, 1899, popularly known as the "Rivers and Harbors Appropriation Act of 1899", and not as part of act Mar. 1, 1893, ch. 183, 27 Stat. 507, which comprises this chapter.

#### 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.

## CHAPTER 15—FLOOD CONTROL

#### Sec.

- |         |   |
|---------|---|
| 701.    | Flood control generally.  |
| 701-1.  | Declaration of policy of 1944 act.                                      |
| 701a.   | Declaration of policy of 1936 act.                                      |
| 701a-1. | "Flood control" defined; jurisdiction of Federal investigations.        |
| 701b.   | Supervision of Secretary of the Army; reclamation projects unaffected.  |
| 701b-1. | Transfer of jurisdiction in certain cases to Department of Agriculture. |

Sec.		Sec.	
701b-2.	Cooperation by Secretaries of the Army and Agriculture; expenditures.	701t.	Emergency fund for flood damage; amount; commitments to be fulfilled by local interests.
701b-3.	Examinations and surveys; availability of appropriations.	701u.	International engineering or scientific conferences; attendance.
701b-4.	Administration of surveys; number authorized; reports.	702.	Mississippi River.
701b-5.	Omitted.	702a.	Adoption of 1927 project; execution; creation of board; scope of authority; appropriation.
701b-6.	Examinations and surveys by Secretary of Agriculture.	702a-1.	Modification of project of 1927; adoption.
701b-7.	Supplemental reports to Senate Environment and Public Works Committee and House Public Works Committee.	702a-1a.	Further modification of 1927 project; adoption; appropriation.
701b-8.	Submission of report by Chief of Engineers.	702a-1b.	Further modification; adoption.
701b-8a.	Discontinuance of preliminary examination reports.	702a-2.	Abandonment of Boeuf Floodway.
701b-9.	Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures.	702a-3.	Levees; raising and enlarging.
701b-10.	Omitted.	702a-4.	Fuse-plug levees.
701b-11.	Flood protection projects.	702a-5.	Back levee north of Eudora Floodway.
701b-12.	Floodplain management requirements.	702a-6.	Drainage necessitated by floodway levees.
701b-13.	Repealed.	702a-7.	Railroad and highway crossings over floodways.
701b-14.	Structural integrity evaluations.	702a-8.	Additional roads; construction by United States.
701b-15.	Non-Federal plans to provide additional flood risk reduction.	702a-9.	Lands, easements, and rights-of-way; acquisition by local authorities; reimbursement; protection of United States from liability for damages.
701b-16.	Management of flood risk reduction projects.	702a-10.	Flowage rights and rights-of-way; reimbursement of local authorities; highway crossings; use of properties for national forests or wildlife refuges.
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.	702a-11.	Morganza Floodway; Eudora Floodway.
701c-1.	Acquirement of titles for certain projects and to lands, easements, rights-of-way; reimbursement of local agencies.	702a-12.	Modified Lower Mississippi River project as of August 18, 1941.
701c-2.	Acquisition and sale of land.	702b.	Local contribution toward cost of flood control work.
701c-3.	Lease receipts; payment of portion to States.	702c.	Expenditures for construction work; conditions precedent; liability for damage from flood waters; condemnation proceedings; floodage rights.
701d.	Compacts between States; consent of Congress.	702d.	Flowage rights; condemnation proceedings; benefits to property.
701e.	Effect of act June 22, 1936, on provisions for Mississippi River and other projects.	702d-1.	Bonnet Carre Spillway and Floodway; rights-of-way, etc., over lands.
701f.	Authorization of appropriations.	702e.	Maps for project; preparation.
701f-1.	Additional authorization.	702f.	Expenditures for earlier projects.
701f-2.	Funds for specific and authorized projects merged with and accounted for under regular annual appropriation.	702g.	Appropriation for emergency fund.
701f-3.	Expenditure in watersheds of funds appropriated for flood prevention purposes.	702g-1.	Additional appropriation for emergency fund.
701g.	Removal of obstructions; clearing channels.	702h.	Prosecution of project by Mississippi River Commission; president of commission; salaries.
701h.	Contributions by States, political subdivisions, and other non-Federal interests.	702h-1.	Transferred.
701h-1.	Contributions by States and political subdivisions for immediate use on authorized flood-control work; repayment.	702i.	Certain sections applicable to property and rights acquired or constructed.
701h-2.	No adverse effect on processes.	702j.	Projects relating to tributary streams; report to Congress; appropriation.
701i.	Elimination from protection of areas subject to evacuation.	702j-1.	Saint Francis and Yazoo Rivers; lands and easements; alteration of highways; cooperation of States.
701j.	Installation in dams of facilities for future development of hydroelectric power.	702j-2.	White River Levee District; rights-of-way; drainage facilities; flowage rights; acquisition by local authorities; protection of United States from liability for damages.
701k.	Crediting reimbursements for lost, stolen, or damaged property.	702k.	Surveys below Cape Girardeau, Missouri; re-survey of levee in Tennessee.
701l, 701l-1.	Repealed.	702k-1.	Authorization of appropriation.
701m.	Insufficient Congressional authorization; preparations for and modification of project.	702k-2.	Separability.
701n.	Emergency response to natural disasters.	702l.	Repeal of inconsistent laws.
701n-1.	Biennial report to Congress.	702m.	Interest of Members of Congress in contracts for acquisition of land.
701n-2.	Monthly report to Congress.	702n.	Levee rights-of-way; payment or reimbursement for.
701o.	Omitted.	702o.	Mississippi River and Tributaries Project.
701p.	Railroad bridge alterations at Federal expense.	703.	Sacramento River, California.
701q.	Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir.	704.	Modification of project.
701r.	Protection of highways, bridge approaches, public works, and nonprofit public services.	705.	Salmon River, Alaska; flood control work authorized.
701r-1.	Utilization of public roads.	706.	Secretary of Commerce; current precipitation information; appropriation.
701s.	Small flood control projects; appropriations; amount limitation for single locality; conditions.	707.	Sumner Dam and Lake Sumner; declaration of purpose; report to Congress; appropriation.

Sec.	
708.	Sale of surplus waters for domestic and industrial uses; disposition of moneys.
709.	Regulations for use of storage waters; application to Tennessee Valley Authority.
709a.	Information on floods and flood damage.
709b.	Flood hazard information.
709c.	Emergency communication of risk.

### § 701. Flood control generally

[LAWS APPLICABLE TO WORKS OF IMPROVEMENT RELATING TO FLOOD CONTROL.] All the provisions of existing law relating to examinations and surveys and to works of improvement of rivers and harbors shall apply, so far as applicable to examinations and surveys and to works of improvement relating to flood control. And all expenditures of funds appropriated for works and projects relating to flood control shall be made in accordance with and subject to the law governing the disbursement and expenditure of funds appropriated for the improvement of rivers and harbors.

[EXAMINATIONS AND SURVEYS; DETAILS FROM GOVERNMENT DEPARTMENTS; REPORTS.] All examinations and surveys of projects relating to flood control shall include a comprehensive study of the watershed or watersheds, and the report thereon in addition to any other matter upon which a report is required shall give such data as it may be practicable to secure in regard to (a) the extent and character of the area to be affected by the proposed improvement; (b) the probable effect upon any navigable water or waterway; (c) the possible economical development and utilization of water power; and (d) such other uses as may be properly related to or coordinated with the project. And the heads of the several departments of the Government may, in their discretion, and shall upon the request of the Secretary of the Army, detail representatives from their respective departments to assist the Engineers of the Army in the study and examination of such watersheds, to the end that duplication of work may be avoided and the various services of the Government economically coordinated therein: *Provided*, That all reports on preliminary examinations hereafter authorized, together with the report of the Board of Engineers for Rivers and Harbors thereon and the separate report of the representative of any other department, shall be submitted to the Secretary of the Army by the Chief of Engineers, with his recommendations, and shall be transmitted by the Secretary of the Army to the House of Representatives, and are ordered to be printed when so made.

[REPORTS BY BOARD OF ENGINEERS FOR RIVERS AND HARBORS.] In the consideration of all works and projects relating to flood control which may be submitted to the Board of Engineers for Rivers and Harbors for consideration and recommendation, said board shall, in addition to any other matters upon which it may be required to report, state its opinion as to (a) what Federal interest, if any, is involved in the proposed improvement; (b) what share of the expense, if any, should be borne by the United States; and (c) the advisability of adopting the project.

(Mar. 1, 1917, ch. 144, § 3, 39 Stat. 950; July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501; Pub. L. 103-437, § 12(c), Nov. 2, 1994, 108 Stat. 4590.)

### CODIFICATION

Sections 1 and 2 of act Mar. 1, 1917, are classified to sections 702 and 703 of this title. Section 4 amended section 643 of this title. See section 702h of this title.

### AMENDMENTS

1994—Pub. L. 103-437 struck out par. at end which read as follows: "All examinations and reports which may now be made by the Board of Engineers for Rivers and Harbors upon request of the Committee on Rivers and Harbors relating to works or projects of navigation shall in like manner be made upon request of the Committee on Flood Control on all works and projects relating to flood control."

### 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.

### TERMINATION OF BOARD OF ENGINEERS FOR RIVERS AND HARBORS AND REASSIGNMENT OF DUTIES AND RESPONSIBILITIES

For termination of Board of Engineers for Rivers and Harbors 180 days after Oct. 31, 1992, and reassignment of duties and responsibilities by Secretary of Army, see section 223 of Pub. L. 102-580, set out as a note under section 541 of this title.

### FLOODPLAIN MANAGEMENT

For provisions relating to the reduction of the risk of flood loss, the minimization of the impact of floods on human safety, health, and welfare, and the management of floodplains, see Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

### EXECUTIVE ORDER NO. 11296

Ex. Ord. No. 11296, Aug. 10, 1966, 31 F.R. 10663, as amended by Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194, which related to the evaluation of flood hazard in locating federally owned or financed buildings, roads, and other facilities, and in disposing of federal lands and properties, was revoked by Ex. Ord. No. 11988, May 24, 1977, 42 F.R. 26951, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

### § 701-1. Declaration of policy of 1944 act

In connection with the exercise of jurisdiction over the rivers of the Nation through the construction of works of improvement, for navigation or flood control, as herein authorized, it is declared to be the policy of the Congress to recognize the interests and rights of the States in determining the development of the watersheds within their borders and likewise their interests and rights in water utilization and control, as herein authorized to preserve and protect to the fullest possible extent established and potential uses, for all purposes, of the waters of the Nation's rivers; to facilitate the consideration of projects on a basis of comprehensive and coordinated development; and to limit the authorization and construction of navigation works to those in which a substantial benefit to navigation will be realized therefrom and which can be operated consistently with appropriate and economic use of the waters of such rivers by other users.