

“(ii) the views received under subsection (e);
“(B) provide the public not less than 30 days to review and comment on draft guidelines before issuing final guidelines; and

“(C) submit to Congress and make publicly available a report that contains a summary of the activities of the Secretary and a description of the findings of the Secretary under this section.

“(2) CONTENT; INCORPORATION INTO MANUAL.—The revised guidelines shall—

“(A) provide a practical, flexible process for approving Statewide, tribal, regional, or watershed variances from the guidelines that—

“(i) reflect due consideration of the factors described in subsection (c); and

“(ii) incorporate State, tribal, and regional vegetation management guidelines for specific areas that—

“(I) are consistent with the guidelines; and

“(II) have been adopted through a formal public process; and

“(B) be incorporated into the manual proposed under section 5(c) of the Act of August 18, 1941 (33 U.S.C. 701n(c)).

“(3) FAILURE TO MEET DEADLINES.—If the Secretary fails to submit a report by the required deadline under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed explanation of—

“(A) why the deadline was missed;

“(B) solutions needed to meet the deadline; and

“(C) a projected date for submission of the report.

“(g) INTERIM ACTIONS.—

“(1) IN GENERAL.—Until the date on which revisions to the guidelines are adopted in accordance with subsection (f), the Secretary shall not require the removal of existing vegetation as a condition or requirement for any approval or funding of a project, or any other action, unless the specific vegetation has been demonstrated to present an unacceptable safety risk.

“(2) REVISIONS.—Beginning on the date on which the revisions to the guidelines are adopted in accordance with subsection (f), the Secretary shall reconsider, on request of an affected entity, any previous action of the Corps of Engineers in which the outcome was affected by the former guidelines.”

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

“(1) REVIEW.—The Secretary shall undertake a comprehensive review of the current policy guidelines on vegetation management for levees. The review shall examine current policies in view of the varied interests in providing flood control, preserving, protecting, and enhancing natural resources, protecting the rights of Native Americans pursuant to treaty and statute, and such other factors as the Secretary considers appropriate.

“(2) COOPERATION AND CONSULTATION.—The review under this section [subsection] shall be undertaken in cooperation with interested Federal agencies and in consultation with interested representatives of State and local governments and the public.

“(3) REVISION OF GUIDELINES.—Based upon the results of the review, the Secretary shall revise, not later than 270 days after the date of the enactment of this Act [Oct. 12, 1996], the policy guidelines so as to provide a coherent and coordinated policy for vegetation management for levees. Such revised guidelines shall address regional variations in levee management and resource needs and shall be incorporated in the manual proposed under section 5(c) of such Act of August 18, 1941 (33 U.S.C. 701n(c)).”

§ 701n-1. Biennial report to Congress

(A) In general

Not later than 2 years after June 10, 2014, and every 2 years thereafter, the Secretary shall

submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing the amounts expended in the previous 5 fiscal years to carry out Corps of Engineers projects under section 701n of this title.

(B) Inclusions

A report under subparagraph (A) shall, at a minimum, include a description of—

(i) each structure, feature, or project for which amounts are expended, including the type of structure, feature, or project and cost of the work; and

(ii) how the Secretary has repaired, restored, replaced, or modified each structure, feature, or project or intends to restore the structure, feature, or project to the design level of protection for the structure, feature, or project.

(Pub. L. 113-121, title III, §3029(c)(1), June 10, 2014, 128 Stat. 1307.)

Statutory Notes and Related Subsidiaries

“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.

§ 701n-2. Monthly report to Congress

In fiscal year 2018, and each fiscal year thereafter, the Chief of Engineers of the U.S. Army Corps of Engineers shall transmit to the Congress, after reasonable opportunity for comment, but without change, by the Assistant Secretary of the Army for Civil Works, a monthly report, the first of which shall be transmitted to Congress not later than 2 days after the date of enactment of this subdivision [subdiv. 1 of div. B of Pub. L. 115-123] and monthly thereafter, which includes detailed estimates of damages to each Corps of Engineers project, caused by natural disasters or otherwise.

(Pub. L. 115-123, div. B, title IV, §20401, Feb. 9, 2018, 132 Stat. 79.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this subdivision, referred to in text, is the date of enactment of subdiv. 1 of div. B of Pub. L. 115-123, which was approved Feb. 9, 2018.

§ 701n-3. Permanent measures to reduce emergency flood fighting needs for communities subject to repetitive flooding

(a) Definitions

In this section:

(1) Affected community

The term “affected community” means a legally constituted public body (as that term is used in section 1962d-5b(b) of title 42)—

(A) with jurisdiction over an area that has been subject to flooding in two or more events in any 10-year period; and

(B) that has received emergency flood-fighting assistance, including construction of temporary barriers by the Secretary,

under section 701n of this title with respect to such flood events.

(2) Natural feature; nature-based feature

The terms “natural feature” and “nature-based feature” have the meanings given those terms in section 2289a of this title.

(b) Program

(1) In general

The Secretary is authorized to carry out a program to study, design, and construct water resources development projects through measures involving, among other things, strengthening, raising, extending, realigning, or otherwise modifying existing flood control works, designing new works, and incorporating natural features, nature-based features, or non-structural features, as appropriate to provide flood and coastal storm risk management to affected communities.

(2) Considerations

In carrying out paragraph (1), the Secretary shall, to the maximum extent practical, review and, where appropriate, incorporate natural features or nature-based features, or a combination of such features and non-structural features, that avoid or reduce at least 50 percent of flood or storm damages in one or more of the alternatives included in the final alternatives evaluated.

(3) Construction

(A) In general

The Secretary may carry out a project described in paragraph (1) without further congressional authorization if—

(i) the Secretary determines that the project—

- (I) is advisable to reduce the risk of flooding for an affected community; and
- (II) produces benefits that are in excess of the estimated costs; and

(ii) the Federal share of the cost of the construction does not exceed \$17,500,000.

(B) Specific authorization

If the Federal share of the cost of a project described in paragraph (1) exceeds \$17,500,000, the Secretary shall submit the project recommendation to Congress for authorization prior to construction, and shall include the project recommendation in the next annual report submitted under section 2282d of this title.

(C) Financing

(i) Contributions

If, based on a study carried out pursuant to paragraph (1), the Secretary determines that a project described in paragraph (1) will not produce benefits greater than cost, the Secretary shall allow the affected community to pay, or provide contributions equal to, an amount sufficient to make the remaining costs of design and construction of the project equal to the estimated value of the benefits of the project.

(ii) Effect on non-Federal share

Amounts provided by an affected community under clause (i) shall be in addi-

tion to any payments or contributions the affected community is required to provide toward the remaining costs of design and construction of the project under section 2213 of this title.

(4) Ability to pay

(A) In general

Any cost-sharing agreement for a project entered into pursuant to this section shall be subject to the ability of the affected community to pay.

(B) Determination

The ability of any affected community to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(C) Effect of reduction

Any reduction in the non-Federal share of the cost of a project described in paragraph (1) as a result of a determination under this paragraph shall not be included in the Federal share for purposes of subparagraphs (A) and (B) of paragraph (3).

(Pub. L. 116-260, div. AA, title I, § 119, Dec. 27, 2020, 134 Stat. 2632.)

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of div. AA of Pub. L. 116-260, set out as a note under section 2201 of this title.

§ 701o. Omitted

Editorial Notes

CODIFICATION

Section, act June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175, related to conditions precedent on unauthorized projects and modifications. Similar provisions were contained in act July 24, 1946, ch. 596, § 2, 60 Stat. 641. See section 701b-8 of this title.

§ 701p. Railroad bridge alterations at Federal expense

On and after July 24, 1946, for authorized flood protection projects which include alterations of railroad bridges the Chief of Engineers is authorized to include at Federal expense the necessary alterations of railroad bridges and approaches in connection therewith.

(July 24, 1946, ch. 596, § 3, 60 Stat. 642.)

§ 701q. Repair and protection of highways, railroads, and utilities damaged by operation of dams or reservoir

Whenever the Chief of Engineers shall find that any highway, railway, or utility has been or is being damaged or destroyed by reason of the operation of any dam or reservoir project under the control of the Department of the Army, he may utilize any funds available for the construction, maintenance, or operation of the project involved for the repair, relocation, restoration, or protection of such highway, railway, or utility: *Provided*, That this section shall not apply to highways, railways, and utilities