

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

previously provided for by the Department of the Army, unless the Chief of Engineers determines that the actual damage has or will exceed that for which provision had previously been made.

(July 24, 1946, ch. 596, §9, 60 Stat. 643; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501.)

Statutory Notes and Related Subsidiaries

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.

§ 701q-1. Repair and restoration of embankments

(a) In general

At the request of a non-Federal interest, the Secretary shall assess the cause of damage to, or the failure of, an embankment that is adjacent to the shoreline of a reservoir project owned and operated by the Secretary for which such damage or failure to the embankment has adversely affected a roadway that the Secretary has relocated for construction of the reservoir.

(b) Repair and restoration activities

If, based on the assessment carried out under subsection (a), the Secretary determines that the cause of the damage to, or the failure of, the embankment is the direct result of the design or operation of the reservoir by the Secretary, the Secretary is authorized to participate in the repair or restoration of such embankment.

(c) Authorization of appropriations

There is authorized to be appropriated to the Secretary \$10,000,000 to carry out this section.

(Pub. L. 116-260, div. AA, title I, §147, Dec. 27, 2020, 134 Stat. 2656.)

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.

§ 701r. Protection of highways, bridge approaches, public works, and nonprofit public services

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$25,000,000 per year, for the construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent damage to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than \$5,000,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year, and if such amount is not

sufficient to cover the costs included in the Federal cost share for a project, as determined by the Secretary, the non-Federal interest shall be responsible for any such costs that exceed such amount.

(July 24, 1946, ch. 596, §14, 60 Stat. 653; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 93-251, title I, §27, Mar. 7, 1974, 88 Stat. 20; Pub. L. 99-662, title IX, §915(c), Nov. 17, 1986, 100 Stat. 4191; Pub. L. 104-303, title II, §219, Oct. 12, 1996, 110 Stat. 3696; Pub. L. 110-114, title II, §2023, Nov. 8, 2007, 121 Stat. 1078; Pub. L. 113-121, title I, §1030(i), June 10, 2014, 128 Stat. 1232; Pub. L. 115-270, title I, §§1157(h), 1167, Oct. 23, 2018, 132 Stat. 3794, 3798.)

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-270 substituted "\$25,000,000" for "\$20,000,000" and inserted ", and if such amount is not sufficient to cover the costs included in the Federal cost share for a project, as determined by the Secretary, the non-Federal interest shall be responsible for any such costs that exceed such amount" before period at end.

2014—Pub. L. 113-121 substituted "\$20,000,000" for "\$15,000,000" and "\$5,000,000" for "\$1,500,000".

2007—Pub. L. 110-114 substituted "\$1,500,000" for "\$1,000,000".

1996—Pub. L. 104-303 substituted "\$15,000,000" for "\$12,500,000" and "\$1,000,000" for "\$500,000".

1986—Pub. L. 99-662 substituted "\$12,500,000" for "\$10,000,000" and "\$500,000" for "\$250,000".

1974—Pub. L. 93-251 substituted "\$10,000,000" for "\$1,000,000", "\$250,000" for "\$50,000", and "construction, repair, restoration, and modification of emergency streambank and shoreline protection works to prevent flood damages to highways, bridge approaches, and public works, churches, hospitals, schools, and other nonprofit public services," for "construction of emergency bank-protection works to prevent flood damages to highways, bridge approaches, and public works,".

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-662 not applicable to any project under contract for construction on Nov. 17, 1986, see section 915(i) of Pub. L. 99-662, set out as a note under section 426g of this title.

§ 701r-1. Utilization of public roads

(a) Definitions

When used in this section—

(1) The term "Agency" means the Corps of Engineers, United States Army or the Bureau of Reclamation, United States Department of the Interior, whichever has jurisdiction over the project concerned.

(2) The term "head of the Agency concerned" means the Chief of Engineers or the Commissioner, Bureau of Reclamation, or their respective designees.