

**Editorial Notes**

## AMENDMENTS

2020—Subsec. (a). Pub. L. 116-260 substituted “, with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damage, including—” and pars. (1) to (5) for “including, but not limited to, floodproofing of structures; flood plain regulation; acquisition of flood plain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages.”

**Statutory Notes and Related Subsidiaries**

## NONSTRUCTURAL FLOOD CONTROL POLICY

Pub. L. 104-303, title II, §202(d), Oct. 12, 1996, 110 Stat. 3675, provided that:

“(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying nonstructural flood control measures as alternatives to structural measures.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Oct. 12, 1996], the Secretary shall transmit to Congress a report on the findings of the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review.”

**§ 701b-12. Floodplain management requirements****(a) Compliance with floodplain management and insurance programs**

Before construction of any project for local flood protection, or any project for hurricane or storm damage reduction, that involves Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal floodplain management and flood insurance programs.

**(b) Floodplain management plans**

Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) applies, the non-Federal interest shall prepare a floodplain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

**(c) Guidelines****(1) In general**

The Secretary shall develop guidelines for preparation of floodplain management plans by non-Federal interests under subsection (b).

**(2) Required elements**

The guidelines developed under paragraph (1) shall—

(A) address potential measures, practices, and policies to be undertaken by non-Federal interests to to<sup>1</sup> reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural floodplain values; and

(B) address those measures to be undertaken by non-Federal interests to preserve

the level of flood protection provided by a project to which subsection (a) applies.

**(3) Limitation on statutory construction**

Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary or the Administrator of the Federal Emergency Management Agency.

**(d) Technical support**

The Secretary may provide technical support to a non-Federal interest for a project to which subsection (a) applies for the development and implementation of plans prepared under subsection (b).

(Pub. L. 99-662, title IV, §402, Nov. 17, 1986, 100 Stat. 4133; Pub. L. 100-676, §14, Nov. 17, 1988, 102 Stat. 4026; Pub. L. 104-303, title II, §202(c)(1), Oct. 12, 1996, 110 Stat. 3674; Pub. L. 106-541, title II, §209(a), (c), Dec. 11, 2000, 114 Stat. 2591; Pub. L. 109-295, title VI, §612(c), Oct. 4, 2006, 120 Stat. 1410.)

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## AMENDMENTS

2000—Subsec. (b). Pub. L. 106-541, §209(c), substituted “Floodplain” for “Flood plain” in heading and “floodplain” for “flood plain” in first sentence.

Subsec. (c). Pub. L. 106-541, §209(a), in first sentence substituted “The” for “Within 6 months after October 12, 1996, the”, designated second sentence as par. (2), inserted heading, substituted “The guidelines developed under paragraph (1) shall—” for “Such guidelines shall”, designated remainder of sentence as subpar. (A), inserted “to be undertaken by non-Federal interests to” after “policies”, added subpar. (B), and redesignated former par. (2) as (3).

1996—Pub. L. 104-303 substituted “Floodplain management requirements” for “Compliance with flood plain management and insurance programs” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before construction of any project for local flood protection or any project for hurricane or storm damage reduction, the non-Federal interests shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.”

1988—Pub. L. 100-676 inserted “or any project for hurricane or storm damage reduction” after “local flood protection”.

**Statutory Notes and Related Subsidiaries**

## CHANGE OF NAME

“Administrator of the Federal Emergency Management Agency” substituted for “Director of the Federal Emergency Management Agency” in subsec. (c)(3) on authority of section 612(c) of Pub. L. 109-295, set out as a note under section 313 of Title 6, Domestic Security. Any reference to the Administrator of the Federal Emergency Management Agency in title VI of Pub. L. 109-295 or an amendment by title VI to be considered to refer and apply to the Director of the Federal Emergency Management Agency until Mar. 31, 2007, see section 612(f)(2) of Pub. L. 109-295, set out as a note under section 313 of Title 6.

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-541, title II, §209(b), Dec. 11, 2000, 114 Stat. 2591, provided that: “The amendments made by subsection (a) [amending this section] shall apply to any project or separable element of a project with respect to which the Secretary [of the Army] and the non-Federal interest have not entered a project cooperation agreement on or before the date of enactment of this Act [Dec. 11, 2000].”

<sup>1</sup> So in original.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-303, title II, §202(c)(2), Oct. 12, 1996, 110 Stat. 3675, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to any project or separable element thereof with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act [Oct. 12, 1996].”

## REFERENCE TO PROJECT COOPERATION AGREEMENT DEEMED REFERENCE TO PROJECT PARTNERSHIP AGREEMENT

Reference to “project cooperation agreement” deemed to be reference to “project partnership agreement”, see section 2003(f)(2) of Pub. L. 110-114, set out as a note under section 1962d-5b of Title 42, The Public Health and Welfare.

**§ 701b-13. Repealed. Pub. L. 113-121, title I, § 1014(c)(3), June 10, 2014, 128 Stat. 1222**

Section, Pub. L. 104-303, title II, §211, Oct. 12, 1996, 110 Stat. 3681; Pub. L. 106-53, title II, §223, Aug. 17, 1999, 113 Stat. 296; Pub. L. 106-60, title VI, §606, Sept. 29, 1999, 113 Stat. 501; Pub. L. 110-114, title V, §5157, Nov. 8, 2007, 121 Stat. 1257, related to construction of flood control projects by non-Federal interests.

**§ 701b-14. Structural integrity evaluations****(a) In general**

Upon request of a non-Federal interest, the Secretary shall evaluate the structural integrity and effectiveness of a project for flood damage reduction and, if the Secretary determines that the project does not meet such minimum standards as the Secretary may establish and absent action by the Secretary the project will fail, the Secretary may take such action as may be necessary to restore the integrity and effectiveness of the project.

**(b) Priority**

The Secretary shall carry out an evaluation and take such actions as may be necessary under subsection (a) for the project for flood damage reduction, Arkansas River Levees, Arkansas.

(Pub. L. 110-114, title V, §5004, Nov. 8, 2007, 121 Stat. 1191.)

**Statutory Notes and Related Subsidiaries**

## “SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 110-114, set out as a note under section 2201 of this title.

**§ 701b-15. Non-Federal plans to provide additional flood risk reduction****(a) In general**

If requested by a non-Federal interest, the Secretary shall carry out a locally preferred 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.)

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## 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.

**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.

**§ 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.)

**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.

**§ 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