

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 non-profit 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 Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641.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.

(3) The term “water resources projects to be constructed in the future” includes all projects not yet actually under construction, and, to the extent of work remaining to be completed, includes projects presently under construction where road relocations or identifiable components thereof are not complete as of the date of this section.

(4) The term “time of the taking” is the date of the relocation agreement, the date of the filing of a condemnation proceeding, or a date agreed upon between the parties as the date of taking.

(b) Improvement, reconstruction, and maintenance

Whenever, in connection with the construction of any authorized flood control, navigation, irrigation, or multiple purpose project for the development of water resources, the head of the Agency concerned determines it to be in the public interest to utilize existing public roads as a means of providing access to such projects during construction, such Agency may improve, reconstruct, and maintain such roads and may contract with the local authority having jurisdiction over the roads to accomplish the necessary work. The accomplishment of such work of improvement may be carried out with or without obtaining any interest in the land on

which the road is located in accordance with mutual agreement between the parties: *Provided*, (1) That the head of the Agency concerned determines that such work would result in a saving in Federal cost as opposed to the cost of providing a new access road at Federal expense, (2) that, at the completion of construction, the head of the Agency concerned will, if necessary, restore the road to at least as good condition as prior to the beginning of utilization for access during construction, and (3) that, at the completion of construction, the responsibility of the Agency for improvement, reconstruction, and maintenance shall cease.

(c) Replacement roads; construction to higher standards

For water resources projects to be constructed in the future, when the taking by the Federal Government of an existing public road necessitates replacement, the substitute provided will, as nearly as practicable, serve in the same manner and reasonably as well as the existing road. The head of the agency concerned is authorized to construct such substitute roads to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected). In any case where a State or political subdivision thereof requests that such a substitute road be constructed to a higher standard than that provided for in the preceding provisions of this subsection, and pays, prior to commencement of such construction, the additional costs involved due to such higher standard, such agency head is authorized to construct such road to such higher standard. Federal costs under the provisions of this subsection shall be part of the nonreimbursable project costs.

(Pub. L. 86-645, title II, §207, July 14, 1960, 74 Stat. 500; Pub. L. 87-874, title II, §208, Oct. 23, 1962, 76 Stat. 1196; Pub. L. 93-251, title I, §13, Mar. 7, 1974, 88 Stat. 17.)

Editorial Notes

AMENDMENTS

1974—Subsec. (c). Pub. L. 93-251 lower cased “agency” in two places, and substituted “to the design standards which the State or owning political division would use in constructing a new road under similar conditions of geography and under similar traffic loads (present and projected).” for “to design standards comparable to those of the State, or, where applicable State standards do not exist, those of the owning political division in which the road is located, for roads of the same classification as the road being replaced. The traffic existing at the time of the taking shall be used in the determination of the classification.”

1962—Subsec. (a). Pub. L. 87-874 added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 87-874 redesignated former subsec. (a) as (b), and among other changes, inserted “irrigation,” before “or multiple-purpose project” and substituted references to head of the Agency concerned, for references to Chief of Engineers. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 87-874 redesignated former subsec. (b) as (c), substituted construction authority to head of the agency concerned for authority to Chief of Engineers, provided that where State standards do not exist, those of the owning political division in which the road is located shall be used, that where a State or

political subdivision requests a substitute road to be constructed to a higher standard than provided in this subsection, and pays the additional costs, the Agency head is authorized to so construct the road, and that the Federal costs under this subsection shall be part of the nonreimbursable costs.

§ 701s. Small flood control projects; appropriations; amount limitation for single locality; conditions

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter made for flood control, not to exceed \$68,750,000 for any one fiscal year, for the implementation of small structural and nonstructural projects, and projects that use natural features or nature-based features (as those terms are defined in section 2289a(a) of this title), for flood control and related purposes not specifically authorized by Congress, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable. The amount allotted for a project shall be sufficient to complete Federal participation in the project. Not more than \$10,000,000 shall be allotted under this section for a project at any single locality. The provisions of local cooperation specified in section 701c of this title shall apply. The work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports.

(June 30, 1948, ch. 771, title II, §205, 62 Stat. 1182; May 17, 1950, ch. 188, title II, §212, 64 Stat. 183; July 11, 1956, ch. 558, 70 Stat. 522; Pub. L. 87-874, title II, §205, Oct. 23, 1962, 76 Stat. 1194; Pub. L. 93-251, title I, §61, Mar. 7, 1974, 88 Stat. 29; Pub. L. 94-587, §133(b), Oct. 22, 1976, 90 Stat. 2928; Pub. L. 97-140, §2(a), Dec. 29, 1981, 95 Stat. 1717; Pub. L. 99-662, title IX, §915(a), Nov. 17, 1986, 100 Stat. 4191; Pub. L. 106-53, title II, §201, Aug. 17, 1999, 113 Stat. 285; Pub. L. 106-541, title II, §218, Dec. 11, 2000, 114 Stat. 2596; Pub. L. 110-114, title II, §2021, Nov. 8, 2007, 121 Stat. 1078; Pub. L. 113-121, title I, §1030(e), June 10, 2014, 128 Stat. 1232; Pub. L. 115-270, title I, §1157(e), Oct. 23, 2018, 132 Stat. 3794; Pub. L. 116-260, div. AA, title I, §114, Dec. 27, 2020, 134 Stat. 2627.)

Editorial Notes

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2020—Pub. L. 116-260 inserted “, and projects that use natural features or nature-based features (as those terms are defined in section 2289a(a) of this title),” after “nonstructural projects”.

2018—Pub. L. 115-270 substituted “\$68,750,000” for “\$55,000,000” in first sentence.

2014—Pub. L. 113-121 substituted “\$10,000,000” for “\$7,000,000” in third sentence.

2007—Pub. L. 110-114 substituted “\$55,000,000” for “\$50,000,000” in first sentence.

2000—Pub. L. 106-541 substituted “\$50,000,000” for “\$40,000,000” in first sentence.

1999—Pub. L. 106-53, in first sentence, substituted “implementation of small structural and nonstructural projects” for “construction of small projects” and, in third sentence, substituted “\$7,000,000” for “\$5,000,000”.

1986—Pub. L. 99-662 substituted “\$40,000,000” for “\$30,000,000” and “\$5,000,000” for “\$4,000,000”.

1981—Pub. L. 97-140 substituted “Not more than \$4,000,000 shall be allotted under this section for a project at any single locality” for “Not more than \$2,000,000 shall be allotted under this section for a project in any single locality, except that not more than \$3,000,000 shall be allotted under this section for a project at a single locality if such project protects an area which has been declared to be a major disaster area pursuant to the Disaster Relief Act of 1966 or the Disaster Relief Act of 1970 in the five-year period immediately preceding the date the Chief of Engineers deems such work advisable”.

1976—Pub. L. 94-587 increased limitation on allotment for a project at a single locality from \$1,000,000 to \$2,000,000 and for such a project protecting a major disaster area from \$2,000,000 to \$3,000,000.

1974—Pub. L. 93-251, in revising provisions, increased fiscal year allotment to \$30,000,000 from \$25,000,000 and required allotment of \$2,000,000 for a project at a single locality if such locality protects an area declared to be a major-disaster area pursuant to Disaster Relief Act of 1966 or Disaster Relief Act of 1970 in five-year period immediately preceding the date the Chief of Engineers deems such work advisable.

1962—Pub. L. 87-874 substituted “\$25,000,000” for “\$10,000,000”, “projects for flood control and related purposes” for “flood control projects”, and provisions limiting the allotment for a single project to \$1,000,000 and providing that such allotment shall be sufficient to complete Federal participation, for provisions limiting the allotment for any single project to \$400,000 from the appropriations for any fiscal year.

1956—Act July 11, 1956, substituted “\$10,000,000” for “\$3,000,000”, struck out “and not within areas intended to be protected by projects so authorized” before “which come within the provisions of section 701a of this title”, and substituted “\$400,000” for “\$150,000”.

1950—Act May 17, 1950, substituted “\$3,000,000” for “\$2,000,000” and “\$150,000” for “\$100,000”.

Statutory Notes and Related Subsidiaries

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.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-140, §2(b), Dec. 29, 1981, 95 Stat. 1717, provided that: “The amendment made by this section [amending this section] shall not apply to any project under contract for construction on the date of enactment of this Act [Dec. 29, 1981].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-587 not applicable to any project under contract for construction on Oct. 22, 1976, see section 133(c) of Pub. L. 94-587, set out as a note under section 577 of this title.

ICE JAM PREVENTION AND MITIGATION

Pub. L. 114-322, title I, §1150, Dec. 16, 2016, 130 Stat. 1661, as amended by Pub. L. 115-270, title I, §1131, Oct. 23, 2018, 132 Stat. 3780, provided that:

“(a) IN GENERAL.—The Secretary [of the Army] may carry out projects under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), including planning, design, construction, and monitoring of structural and nonstructural technologies and measures, for preventing and mitigating flood damages associated with ice jams.

“(b) INCLUSION.—The projects described in subsection (a) may include the development and demonstration of cost-effective technologies and designs developed in consultation with—

“(1) the Cold Regions Research and Engineering Laboratory of the Corps of Engineers;

“(2) universities;