

related to a revolving fund for expenses of the Corps of Engineers.

Section is set out as section 576 of this title.

§ 701b–11. Flood protection projects

(a) General considerations; nonstructural alternatives

In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages, with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damage, including—

- (1) floodproofing of structures, including through elevation;
- (2) floodplain regulation;
- (3) acquisition of floodplain land for recreational, fish and wildlife, and other public purposes;
- (4) relocation; and
- (5) the use of a feature described in section 2289a(a) of this title.

(b) Non-Federal participation through nonstructural alternatives; limitation

Where a nonstructural alternative is recommended, non-Federal participation shall be comparable to the value of lands, easements, and rights-of-way which would have been required of non-Federal interests under section 701c of this title, for structural protection measures, but in no event shall exceed 20 per centum of the project costs.

(Pub. L. 93–251, title I, § 73, Mar. 7, 1974, 88 Stat. 32; Pub. L. 116–260, div. AA, title I, § 115(a), Dec. 27, 2020, 134 Stat. 2627.)

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 to¹ 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.)

Editorial Notes

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.

¹ So in original.