

“(v) levee performance history, including historical information on original construction and subsequent operation and maintenance activities;

“(vi) any effects on water supply;

“(vii) any scientific evidence on the link between levee vegetation and levee safety;

“(viii) institutional considerations, including implementation challenges and conflicts with or violations of Federal or State environmental laws;

“(ix) the availability of limited funds for levee construction and rehabilitation;

“(x) the economic and environmental costs of removing woody vegetation on levees; and

“(xi) other relevant factors identified in public comments that the Secretary determines to be appropriate.

“(B) SCOPE.—The scope of a variance approved by the Secretary may include a complete exemption to guidelines, if appropriate.

“(d) COOPERATION AND CONSULTATION; RECOMMENDATIONS.—

“(1) IN GENERAL.—The Secretary shall carry out the review under this section in consultation with other applicable Federal agencies, representatives of State, regional, local, and tribal governments, appropriate nongovernmental organizations, and the public.

“(2) RECOMMENDATIONS.—

“(A) REGIONAL INTEGRATION TEAMS.—Corps of Engineers Regional Integration Teams, representing districts, divisions, and headquarters, in consultation with State and Federal resource agencies, and with participation by local agencies, shall submit to the Secretary any recommendations for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

“(B) STATE, TRIBAL, REGIONAL, AND LOCAL ENTITIES.—The Secretary shall consider and accept recommendations from any State, tribal, regional, or local entity for vegetation management policies for levees that conform with Federal and State laws and other applicable requirements, including recommendations relating to the review of guidelines under subsection (b) and the consideration of variances under subsection (c)(2).

“(e) INDEPENDENT CONSULTATION.—

“(1) IN GENERAL.—As part of the review, the Secretary shall solicit and consider the views of independent experts on the engineering, environmental, and institutional considerations underlying the guidelines, including the factors described in subsection (c) and any information obtained by the Secretary under subsection (d).

“(2) AVAILABILITY OF VIEWS.—The views of the independent experts obtained under paragraph (1) shall be—

“(A) made available to the public; and

“(B) included in supporting materials issued in connection with the revised guidelines required under subsection (f).

“(f) REVISION OF GUIDELINES.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act [June 10, 2014], the Secretary shall—

“(A) revise the guidelines based on the results of the review, including—

“(i) recommendations received as part of the consultation described in subsection (d)(1); and

“(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)]).”

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 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-