

## TITLE 33 - NAVIGATION AND NAVIGABLE WATERS

### CHAPTER 15 - FLOOD CONTROL

#### § 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.)

## 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.