

States, capable of being utilized in the transportation of commercial cargo in domestic or foreign waterborne commerce by commercial vessels. The term does not include—

- (A) an inland harbor;
- (B) the Saint Lawrence Seaway;
- (C) local access or berthing channels;
- (D) channels or harbors constructed or maintained by nonpublic interests; and
- (E) any portion of the Columbia River other than the channels on the downstream side of Bonneville lock and dam.

(5) Inland harbor

The term “inland harbor” means a navigation project which is used principally for the accommodation of commercial vessels and the receipt and shipment of waterborne cargoes on inland waters. The term does not include—

- (A) projects on the Great Lakes;
- (B) projects that are subject to tidal influence;
- (C) projects with authorized depths of greater than 20 feet;
- (D) local access or berthing channels; and
- (E) projects constructed or maintained by nonpublic interests.

(6) Nominal depth

The term “nominal depth” means, in relation to the stated depth for any navigation improvement project, such depth, including any greater depths which must be maintained for any harbor or inland harbor or element thereof included within such project in order to ensure the safe passage at mean low tide of any vessel requiring the stated depth.

(7) Non-Federal interest

The term “non-Federal interest” has the meaning such term has under section 1962d-5b of title 42 and includes any interstate agency and port authority established under a compact entered into between two or more States with the consent of Congress under section 10 of Article I of the Constitution.

(8) United States

The term “United States” means all areas included within the territorial boundaries of the United States, including the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and any other territory or possession over which the United States exercises jurisdiction.

(Pub. L. 99-662, title II, §214, Nov. 17, 1986, 100 Stat. 4108; Pub. L. 104-303, title II, §201(e), Oct. 12, 1996, 110 Stat. 3672; Pub. L. 116-260, div. AA, title V, §512(c)(5)(C), Dec. 27, 2020, 134 Stat. 2756.)

Editorial Notes

REFERENCES IN TEXT

Section 202 of this title, referred to in pars. (1) and (3), is section 202 of title II of Pub. L. 99-662, Nov. 17, 1986, 100 Stat. 4091, which is not classified to the Code.

AMENDMENTS

2020—Par. (2)(B). Pub. L. 116-260 substituted “Great Lakes St. Lawrence Seaway Development Corporation”

for “Saint Lawrence Seaway Development Corporation”.

1996—Par. (2)(A). Pub. L. 104-303, §201(e)(1), inserted “Federal” after “means all” and “(i)” after “including”, and inserted before period at end a semicolon and cls. (ii) to (v).

Par. (2)(C). Pub. L. 104-303, §201(e)(2), substituted “or rights-of-way,” for “rights-of-way, or dredged material disposal areas.”.

Statutory Notes and Related Subsidiaries

INCREASES IN NON-FEDERAL SHARE OF COSTS

Amendment by Pub. L. 104-303 not to increase, or result in increase of, non-Federal share of costs of expanding any confined dredged material disposal facility that is operated by Secretary and authorized for cost recovery through collection of tolls, any confined dredged material disposal facility for which invitation for bids for construction was issued before Oct. 12, 1996, and expanding any confined dredged material disposal facility constructed under section 1293a of this title if capacity of confined dredged material disposal facility was exceeded in less than 6 years, see section 201(g) of Pub. L. 104-303, set out as a note under section 2211 of this title.

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.

§ 2242. Remote and subsistence harbors

(a) In general

In conducting a study of harbor and navigation improvements, the Secretary may recommend a project without the need to demonstrate that the project is justified solely by national economic development benefits if the Secretary determines that—

- (1) the project would be located in the State of Hawaii or Alaska, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa; and

- (2)(A) over 80 percent of the goods transported through the harbor would be consumed within the United States, as determined by the Secretary, including consideration of information provided by the non-Federal interest; or

- (B) the long-term viability of the community in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project, would be threatened without the harbor and navigation improvement.

(b) Justification

In considering whether to recommend a project under subsection (a), the Secretary shall consider the benefits of the project to any of—

- (1) public health and safety of the local community and communities that are located in the region to be served by the project and that will rely on the project, including access to facilities designed to protect public health and safety;

- (2) access to natural resources for subsistence purposes;

(3) local and regional economic opportunities;

(4) welfare of the regional population to be served by the project; or

(5) social and cultural value to the local community and communities that are located in the region to be served by the project and that will rely on the project.

(c) Prioritization

Projects recommended by the Secretary under subsection (a) shall be given equivalent budget consideration and priority as projects recommended solely by national economic development benefits.

(d) Disposition

(1) In general

The Secretary may carry out any project identified in the study carried out pursuant to subsection (a) in accordance with the criteria for projects carried out under the authority of the Secretary under section 577 of this title.

(2) Non-Federal interests

In evaluating and implementing a project under this section, the Secretary shall allow a non-Federal interest to participate in the financing of a project in accordance with the criteria established for flood control projects under section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4184).

(e) Annual report

For a project that cannot be carried out under the authority specified in subsection (d), on a determination by the Secretary of the feasibility of the project under subsection (a), the Secretary may include a recommendation concerning the project in the annual report submitted to Congress under section 2282d of this title.

(Pub. L. 110-114, title II, § 2006, Nov. 8, 2007, 121 Stat. 1073; Pub. L. 113-121, title II, § 2104, June 10, 2014, 128 Stat. 1279; Pub. L. 114-322, title I, § 1105, Dec. 16, 2016, 130 Stat. 1633; Pub. L. 118-272, div. A, title I, § 1147, Jan. 4, 2025, 138 Stat. 3038.)

Editorial Notes

REFERENCES IN TEXT

Section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4184), referred to in subsec. (d)(2), is not classified to the Code.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2007, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2025—Subsec. (a)(1). Pub. L. 118-272, § 1147(1), added par. (1) and struck out former par. (1) which read as follows:

“(1)(A) the community to be served by the project is at least 70 miles from the nearest surface accessible commercial port and has no direct rail or highway link to another community served by a surface accessible port or harbor; or

“(B) the project would be located in the State of Hawaii or Alaska, the Commonwealth of Puerto Rico,

Guam, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, or American Samoa;”.

Subsec. (a)(2). Pub. L. 118-272, § 1147(1), added par. (2) and struck out former par. (2) which read as follows: “the harbor is economically critical such that over 80 percent of the goods transported through the harbor would be consumed within the region served by the harbor and navigation improvement, as determined by the Secretary, including consideration of information provided by the non-Federal interest; and”.

Subsec. (a)(3). Pub. L. 118-272, § 1147(1), struck out par. (3) which read as follows: “the long-term viability of the community in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project, would be threatened without the harbor and navigation improvement.”

Subsec. (b). Pub. L. 118-272, § 1147(2)(A), in introductory provisions, substituted “benefits of the project to any of” for “benefits of the project to”.

Subsec. (b)(4). Pub. L. 118-272, § 1147(2)(B), substituted “; or” for “; and”.

2016—Subsec. (a)(3). Pub. L. 114-322, § 1105(1), inserted “in which the project is located, or the long-term viability of a community that is located in the region that is served by the project and that will rely on the project,” after “the community”.

Subsec. (b)(1). Pub. L. 114-322, § 1105(2)(A), inserted “and communities that are located in the region to be served by the project and that will rely on the project” after “local community”.

Subsec. (b)(4). Pub. L. 114-322, § 1105(2)(B), substituted “regional population to be served by the project” for “local population”.

Subsec. (b)(5). Pub. L. 114-322, § 1105(2)(C), substituted “local community and communities that are located in the region to be served by the project and that will rely on the project” for “community”.

2014—Subsec. (a)(1)(B). Pub. L. 113-121, § 2104(1)(A), inserted “or Alaska” after “Hawaii”.

Subsec. (a)(2). Pub. L. 113-121, § 2104(1)(B), substituted “region” for “community” and inserted “, as determined by the Secretary, including consideration of information provided by the non-Federal interest” after “improvement”.

Subsecs. (c) to (e). Pub. L. 113-121, § 2104(2), added subsecs. (c) to (e).

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.

§ 2243. Arctic deep draft port development partnerships

(a) In general

The Secretary may provide technical assistance to non-Federal public entities, including Indian tribes (as defined in section 5304 of title 25) and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 1602 of title 43¹, for the development, construction, operation, and maintenance of channels, harbors, and related infrastructure associated with deep draft ports for purposes of dealing with Arctic development and security needs.

(b) Acceptance of funds

The Secretary is authorized to accept and expend funds provided by non-Federal public enti-

¹So in original. Probably should be followed by a closing parenthesis.