

Stat. 173; Pub. L. 109-59, title VI, §6009(a)(2), Aug. 10, 2005, 119 Stat. 1875; Pub. L. 113-287, §5(p), Dec. 19, 2014, 128 Stat. 3272; Pub. L. 114-94, div. A, title I, §§1301(b), 1302(b), 1303(b), title XI, §11502(b), Dec. 4, 2015, 129 Stat. 1376, 1378, 1690.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303(a)	49:1651(b)(2). 49:1653(f) (1st sentence).	Oct. 15, 1966, Pub. L. 89-670, §2(b)(2), 80 Stat. 931. Oct. 15, 1966, Pub. L. 89-670, §4(f), 80 Stat. 934; restated Aug. 23, 1968, Pub. L. 90-495, §18(b), 82 Stat. 824.
303(b)	49:1653(f) (2d sentence).	
303(c)	49:1653(f) (less 1st, 2d sentences).	

In subsection (a), the words “hereby declared to be” before “the policy” are omitted as surplus. The words “of the United States Government” are substituted for “national” for clarity and consistency.

In subsection (b), the words “crossed by transportation activities or facilities” are substituted for “traversed” for clarity.

In subsection (c), before clause (1), the words “After August 23, 1968” after “Secretary” are omitted as executed. The word “transportation” is inserted before “program” for clarity. In clause (2), the words “or project” are added for consistency.

Editorial Notes

REFERENCES IN TEXT

Section 204 of title 23, referred to in subsec. (c), was repealed and a new section 204 enacted by Pub. L. 112-141, div. A, title I, §1119(a), July 6, 2012, 126 Stat. 473, 489.

The National Environmental Policy Act of 1969, referred to in subsec. (e)(1)(A), (2)(A), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The date of enactment of this subsection, referred to in subsec. (e)(1)(B), is the date of enactment of Pub. L. 114-94, which was approved Dec. 4, 2015.

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-94, §11502(b)(1), substituted “subsections (d) and (h)” for “subsection (d)”. Subsec. (e). Pub. L. 114-94, §1301(b), added subsec. (e). Subsec. (f). Pub. L. 114-94, §1302(b), added subsec. (f). Subsec. (g). Pub. L. 114-94, §1303(b), added subsec. (g). Subsec. (h). Pub. L. 114-94, §11502(b)(2), added subsec. (h).

2014—Subsec. (d)(2)(A). Pub. L. 113-287 substituted “section 306108 of title 54, United States Code” for “section 106 of the National Historic Preservation Act (16 U.S.C. 470f)” in introductory provisions.

2005—Subsec. (c). Pub. L. 109-59, §6009(a)(2)(A), inserted heading and substituted “Subject to subsection (d), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (d). Pub. L. 109-59, §6009(a)(2)(B), added subsec. (d).

1987—Subsec. (c). Pub. L. 100-17 inserted “(other than any project for a park road or parkway under section 204 of title 23)” after “program or project”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

TREATMENT OF MILITARY FLIGHT OPERATIONS

Pub. L. 105-85, div. A, title X, §1079, Nov. 18, 1997, 111 Stat. 1916, provided that: “No military flight operation (including a military training flight), or designation of airspace for such an operation, may be treated as a transportation program or project for purposes of section 303(c) of title 49, United States Code.”

§ 303a. Development of water transportation

(a) POLICY.—It is the policy of Congress—

(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

(2) to foster and preserve rail and water transportation.

(b) DEFINITION.—In this section, “inland waterway” includes the Great Lakes.

(c) REQUIREMENTS.—The Secretary of Transportation shall—

(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

(3) consult with communities, cities, and towns about the location of water terminals, and cooperate with them in preparing plans for terminal facilities;

(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

(B) water carriers using those waterways are interchanging traffic with rail carriers;

(5) investigate other matters that may promote and encourage inland water transportation; and

(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.

(Pub. L. 103-272, §4(j)(6)(A), July 5, 1994, 108 Stat. 1366.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
303a	49 App.:142.	Feb. 28, 1920, ch. 91, §500, 41 Stat. 499; Aug. 6, 1981, Pub. L. 97-31, §12(9), 95 Stat. 154.

Section 4(j)(6)(A) amends 49:ch. 3 by restating 49 App.:142 as section 303a because the provision more appropriately belongs in chapter 3.

In subsection (a)(2), the words “in full vigor both” are omitted as surplus.

In subsection (b), the words “be construed to” are omitted as surplus.

In subsection (c)(1), the word “appropriate” is omitted as surplus. The word “vessels” is substituted for “boats” for consistency in the revised title and with other titles of the United States Code.

In subsection (c)(2), the words “the subject of”, “apparatus”, “appliances in connection therewith”, and “or interchange” are omitted as surplus.

In subsection (c)(3), the words “appropriate” and “suitable” are omitted as surplus.

In subsection (c)(6), the words “province and”, “from time to time”, and “useful statistics, data, and” are omitted as surplus.

Statutory Notes and Related Subsidiaries

ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE

Pub. L. 116-283, div. G, title LVXXXIV [LXXXIV], § 8426, Jan. 1, 2021, 134 Stat. 4730, provided that:

“(a) PURPOSE.—The purpose of this section is to establish a Federal advisory committee to provide policy recommendations to the Secretary of Transportation on positioning the United States to take advantage of emerging opportunities for Arctic maritime transportation.

“(b) DEFINITIONS.—In this section:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the Arctic Shipping Federal Advisory Committee established under subsection (c)(1).

“(2) ARCTIC.—The term ‘Arctic’ has the meaning given the term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

“(3) Arctic sea routes.—The term ‘Arctic Sea Routes’ means the international Northern Sea Route, the Transpolar Sea Route, and the Northwest Passage.

“(c) ESTABLISHMENT OF THE ARCTIC SHIPPING FEDERAL ADVISORY COMMITTEE.—

“(1) ESTABLISHMENT OF ADVISORY COMMITTEE.—

“(A) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of State, the Secretary of Defense acting through the Secretary of the Army and the Secretary of the Navy, the Secretary of Commerce, and the Secretary of the Department in which the Coast Guard is operating, shall establish an Arctic Shipping Federal Advisory Committee in the Department of Transportation to advise the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on matters related to Arctic maritime transportation, including Arctic seaway development.

“(B) MEETINGS.—The Advisory Committee shall meet at the call of the Chairperson, and at least once annually in Alaska.

“(2) MEMBERSHIP.—

“(A) IN GENERAL.—The Advisory Committee shall be composed of 17 members as described in subparagraph (B).

“(B) COMPOSITION.—The members of the Advisory Committee shall be—

“(i) 1 individual appointed and designated by the Secretary of Transportation to serve as the Chairperson of the Advisory Committee;

“(ii) 1 individual appointed and designated by the Secretary of the Department in which the Coast Guard is operating to serve as the Vice Chairperson of the Advisory Committee;

“(iii) 1 designee of the Secretary of Commerce;

“(iv) 1 designee of the Secretary of State;

“(v) 1 designee of the Secretary of Transportation;

“(vi) 1 designee of the Secretary of Defense;

“(vii) 1 designee from the State of Alaska, nominated by the Governor of Alaska and designated by the Secretary of Transportation;

“(viii) 1 designee from the State of Washington, nominated by the Governor of Washington and designated by the Secretary of Transportation;

“(ix) 3 Alaska Native Tribal members;

“(x) 1 individual representing Alaska Native subsistence co-management groups affected by Arctic maritime transportation;

“(xi) 1 individual representing coastal communities affected by Arctic maritime transportation;

“(xii) 1 individual representing vessels of the United States (as defined in section 116 of title 46, United States Code) participating in the shipping industry;

“(xiii) 1 individual representing the marine safety community;

“(xiv) 1 individual representing the Arctic business community; and

“(xv) 1 individual representing maritime labor organizations.

“(C) TERMS.—

“(i) LIMITATIONS.—Each member of the Advisory Committee described in clauses (vii) through (xv) of subparagraph (B) shall serve for a 2-year term and shall not be eligible for more than 2 consecutive term reappointments.

“(ii) VACANCIES.—Any vacancy in the membership of the Advisory Committee shall not affect its responsibilities, but shall be filled in the same manner as the original appointment and in accordance with the Federal Advisory Committee Act ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.].

“(3) FUNCTIONS.—The Advisory Committee shall carry out all of the following functions:

“(A) Develop a set of policy recommendations that would enhance the leadership role played by the United States in improving the safety and reliability of Arctic maritime transportation in accordance with customary international maritime law and existing Federal authority. Such policy recommendations shall consider options to establish a United States entity that could perform the following functions in accordance with United States law and customary international maritime law:

“(i) Construction, operation, and maintenance of current and future maritime infrastructure necessary for vessels transiting the Arctic Sea Routes, including potential new deep draft and deepwater ports.

“(ii) Provision of services that are not widely commercially available in the United States Arctic that would—

“(I) improve Arctic maritime safety and environmental protection;

“(II) enhance Arctic maritime domain awareness; and

“(III) support navigation and incident response for vessels transiting the Arctic Sea Routes.

“(iii) Establishment of rules of measurement for vessels and cargo for the purposes of levying voluntary rates of charges or fees for services.

“(B) As an option under subparagraph (A), consider establishing a congressionally chartered seaway development corporation modeled on the Saint Lawrence Seaway Development Corporation, and—

“(i) develop recommendations for establishing such a corporation and a detailed implementation plan for establishing such an entity; or

“(ii) if the Advisory Committee decides against recommending the establishment of such a corporation, provide a written explanation as to the rationale for the decision and develop an alternative, as practicable.

“(C) Provide advice and recommendations, as requested, to the Secretary of Transportation and the Secretary of the Department in which the Coast Guard is operating on Arctic marine transportation, including seaway development, and consider national security interests, where applicable, in such recommendations.

“(D) In developing the advice and recommendations under subparagraph (C), engage with and so-

licit feedback from coastal communities, Alaska Native subsistence co-management groups, and Alaska Native tribes.

“(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act [Jan. 1, 2021], the Advisory Committee shall submit a report with its recommendations under subparagraphs (A) and (B) of subsection (c)(3) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(e) TERMINATION OF THE ADVISORY COMMITTEE.—Not later than 8 years after the submission of the report described in subsection (d), the Secretary of Transportation shall dissolve the Advisory Committee.

“(f) INTERNATIONAL ENGAGEMENT.—If a Special Representative for the Arctic Region is appointed by the Secretary of State, the duties of that Representative shall include—

“(1) coordination of any activities recommended by the implementation plan submitted by the Advisory Committee and approved by the Secretary of Transportation; and

“(2) facilitation of multilateral dialogues with member and observer nations of the Arctic Council to encourage cooperation on Arctic maritime transportation.

“(g) TRIBAL CONSULTATION.—In implementing any of the recommendations provided under subsection (c)(3)(C), the Secretary of Transportation shall consult with Alaska Native tribes.”

§ 304. Application of categorical exclusions for multimodal projects

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COOPERATING AUTHORITY.—The term “cooperating authority” means a Department of Transportation operating administration or secretarial office that has expertise but is not the lead authority with respect to a proposed multimodal project.

(2) LEAD AUTHORITY.—The term “lead authority” means a Department of Transportation operating administration or secretarial office that has the lead responsibility for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a proposed multimodal project.

(3) MULTIMODAL PROJECT.—The term “multimodal project” has the meaning given the term in section 139(a) of title 23.

(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title or title 23.

(c) APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.—In considering the environmental impacts of a proposed multimodal project, a lead authority may apply categorical exclusions designated under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in implementing regulations or procedures of a cooperating authority for a proposed multimodal project, subject to the conditions that—

(1) the lead authority makes a determination, with the concurrence of the cooperating authority—

(A) on the applicability of a categorical exclusion to a proposed multimodal project; and

(B) that the project satisfies the conditions for a categorical exclusion under the

National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section;

(2) the lead authority follows the implementing regulations of the cooperating authority or procedures under that Act; and

(3) the lead authority determines that—

(A) the proposed multimodal project does not individually or cumulatively have a significant impact on the environment; and

(B) extraordinary circumstances do not exist that merit additional analysis and documentation in an environmental impact statement or environmental assessment required under that Act.

(d) COOPERATING AUTHORITY EXPERTISE.—A cooperating authority shall provide expertise to the lead authority on aspects of the multimodal project in which the cooperating authority has expertise.

(Pub. L. 97-449, §1(b), Jan. 12, 1983, 96 Stat. 2419; Pub. L. 112-141, div. A, title I, §1314(a), July 6, 2012, 126 Stat. 547; Pub. L. 114-94, div. A, title I, §1310, Dec. 4, 2015, 129 Stat. 1397.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
304(a)	49:1653(g) (less 3d sentence).	Oct. 15, 1966, Pub. L. 89-670, §4(g), 80 Stat. 934.
304(b)	49:1653(g) (3d sentence).	

In subsection (a), the text of 49:1653(g) (last sentence) is omitted as executed.

In subsection (a)(4), the word “ensure” is substituted for “assure” as being more precise. The words “of the United States Government” are substituted for “Federal”, and the words “United States” are substituted for “national”, for clarity and consistency.

In subsection (b), the words “The Secretaries shall report on April 1 of each year” are substituted for “They shall, within one year after the effective date of the Act, and annually thereafter, report” to omit executed words and to specify the date of April 1 because the President prescribed April 1, 1967, as the effective date of the Department of Transportation Act (Pub. L. 89-670, 80 Stat. 931) by Executive Order No. 11340, March 30, 1967 (32 F.R. 5443). The word “consider” is substituted for “determine” for consistency.

Editorial Notes

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsecs. (a)(2) and (c), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-94, §1310(1)(A), substituted “operating administration or secretarial office that has expertise but” for “operating authority that” and inserted “proposed multimodal” after “with respect to a”.

Subsec. (a)(2). Pub. L. 114-94, §1310(1)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—