

seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, \$3,000,000 to implement subsection (b) and \$1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

“(f) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.”

§ 2240. Emergency response services

(a) Grants

The Secretary is authorized to make grants to any non-Federal interest operating a project for a harbor for provision of emergency response services in such harbor (including contingency planning, necessary personnel training, and the procurement of equipment and facilities either by the non-Federal interest, by a local agency or municipality, or by a combination of local agencies or municipalities on a cost-reimbursable basis, either by a cooperative agreement, mutual aid plan, or mutual assistance plan entered into between one or more non-Federal interests, public agencies, or local municipalities).

(b) Authorization of appropriations

There is authorized to be appropriated for fiscal years beginning after September 30, 1986, and ending before October 1, 1992, \$5,000,000.

(Pub. L. 99-662, title II, §212, Nov. 17, 1986, 100 Stat. 4107.)

§ 2241. Definitions

For purposes of this subchapter—

(1) Deep-draft harbor

The term “deep-draft harbor” means a harbor which is authorized to be constructed to a depth of more than 45 feet (other than a project which is authorized by section 202 of this title).

(2) Eligible operations and maintenance

(A) Except as provided in subparagraph (B), the term “eligible operations and maintenance” means all Federal operations, maintenance, repair, and rehabilitation, including (i) maintenance dredging reasonably necessary to maintain the width and nominal depth of any harbor or inland harbor; (ii) the construction of dredged material disposal facilities that are necessary for the operation and maintenance of any harbor or inland harbor; (iii) dredging and disposing of contaminated sediments that are in or that affect the maintenance of Federal navigation channels; (iv) mitigating for impacts resulting from Federal navigation operation and maintenance activities; and (v) operating and maintaining dredged material disposal facilities.

(B) As applied to the Saint Lawrence Seaway, the term “eligible operations and maintenance” means all operations, maintenance, repair, and rehabilitation, including maintenance dredging reasonably necessary to keep such Seaway or navigation improvements operated or maintained by the Saint Lawrence Seaway Development Corporation in operation and reasonable state of repair.

(C) The term “eligible operations and maintenance” does not include providing any lands,

easements, or rights-of-way, or performing relocations required for project operations and maintenance.

(3) General cargo harbor

The term “general cargo harbor” means a harbor for which a project is authorized by section 202 of this title and any other harbor which is authorized to be constructed to a depth of more than 20 feet but not more than 45 feet;

(4) Harbor

The term “harbor” means any channel or harbor, or element thereof, in the United 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.)

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

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,”.

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.

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)(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;

(2) 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

(3) 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—

(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; and

(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.)

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

2016—Subsec. (a)(3). Pub. L. 114-322, §1105(1), inserted “in which the project is located, or the long-term via-