

(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-

bility 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).

“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 43<sup>1</sup>, 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 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 43<sup>1</sup>, to carry out the technical assistance activities described in subsection (a).

**(c) Limitation**

No assistance may be provided under this section until after the date on which the entity to which that assistance is to be provided enters into a written agreement with the Secretary that includes such terms and conditions as the Secretary determines to be appropriate and in the public interest.

**(d) Prioritization**

The Secretary shall prioritize technical assistance provided under this section for Arctic deep draft ports identified by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Defense as important for Arctic development and security.

<sup>1</sup> So in original. Probably should be followed by a closing parenthesis.

**(e) Consideration of national security interests**

In carrying out a study of the feasibility of an Arctic deep draft port, the Secretary—

(1) shall consult with the Secretary of the department in which the Coast Guard is operating to identify benefits in carrying out the missions specified in section 468 of title 6 associated with an Arctic deep draft port;

(2) shall consult with the Secretary of Defense to identify national security benefits associated with an Arctic deep draft port; and

(3) may consider such benefits in determining whether an Arctic deep draft port is feasible.

(Pub. L. 113-121, title II, §2105, June 10, 2014, 128 Stat. 1279; Pub. L. 114-322, title I, §1202(c), Dec. 16, 2016, 130 Stat. 1684.)

CODIFICATION

Section was enacted as part of the Water Resources Reform and Development Act of 2014, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2016—Subsecs. (a), (b). Pub. L. 114-322, §1202(c)(1), inserted “and a Native village, Regional Corporation, or Village Corporation (as those terms are defined in section 1602 of title 43” after “title 25)” and made technical amendment to reference in original act which appears in text as reference to section 5304 of title 25.

Subsec. (d). Pub. L. 114-322, §1202(c)(2), substituted “the Secretary of the department in which the Coast Guard is operating” for “the Secretary of Homeland Security”.

Subsec. (e). Pub. L. 114-322, §1202(c)(3), added subsec. (e).

“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.

SUBCHAPTER III—INLAND WATERWAY  
TRANSPORTATION SYSTEM

**§ 2251. Inland Waterways Users Board**

**(a) Establishment of Users Board**

There is hereby established an Inland Waterway Users Board (hereinafter in this section referred to as the “Users Board”) composed of the eleven members selected by the Secretary, one of whom shall be designated by the Secretary as Chairman. The members shall be selected so as to represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland waterways. The Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the Users Board.

**(b) Duties of Users Board**

**(1) In general**

The Users Board shall meet not less frequently than semiannually to develop and make recommendations to the Secretary and