

(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 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).

“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 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, 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

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

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.

(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 Congress regarding the inland waterways and inland harbors of the United States.

(2) Advice and recommendations

For commercial navigation features and components of the inland waterways and inland harbors of the United States, the Users Board shall provide—

(A) prior to the development of the budget proposal of the President for a given fiscal year, advice and recommendations to the Secretary regarding construction and rehabilitation priorities and spending levels;

(B) advice and recommendations to Congress regarding any feasibility report for a project on the inland waterway system that has been submitted to Congress pursuant to section 2282d of this title;

(C) advice and recommendations to Congress regarding an increase in the authorized cost of those features and components;

(D) not later than 60 days after the date of the submission of the budget proposal of the President to Congress, advice and recommendations to Congress regarding construction and rehabilitation priorities and spending levels; and

(E) advice and recommendations on the development of a long-term capital investment program in accordance with subsection (d).

(3) Project development teams

The chairperson of the Users Board shall appoint a representative of the Users Board to serve as an advisor to the project development team for a qualifying project or the study or design of a commercial navigation feature or component of the inland waterways and inland harbors of the United States.

(4) Independent judgment

Any advice or recommendation made by the Users Board to the Secretary shall reflect the independent judgment of the Users Board.

(c) Duties of Secretary

The Secretary shall—

(1) communicate not less frequently than once each quarter to the Users Board the status of the study, design, or construction of all commercial navigation features or components of the inland waterways or inland harbors of the United States; and

(2) submit to the Users Board a courtesy copy of all completed feasibility reports relating to a commercial navigation feature or component of the inland waterways or inland harbors of the United States.

(d) Capital investment program

(1) In general

Not later than 1 year after June 10, 2014, the Secretary, in coordination with the Users Board, shall develop and submit to Congress a report describing a 20-year program for making capital investments on the inland and intracoastal waterways based on the application