

harbor referred to in subsection (a)(2) that transits not less than 10,000,000 tons of cargo annually.

(7) Moderate-use harbor project

The term “moderate-use harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2) that transits annually—

- (A) more than 1,000,000 tons of cargo; but
- (B) less than 10,000,000 tons of cargo.

(8) Priority funds

The term “priority funds” means the difference between—

- (A) the total funds that are made available under this section to pay the costs described in subsection (a)(2) for a fiscal year; and
- (B) the total funds made available under this section to pay the costs described in subsection (a)(2) in fiscal year 2012.

(9) Underserved harbor project

(A) In general

The term “underserved harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2)—

- (i) that is a moderate-use harbor project or an emerging harbor project;
- (ii) that has been maintained at less than the constructed width and depth of the project during each of the preceding 6 fiscal years; and
- (iii) for which State and local investments in infrastructure have been made at those projects during the preceding 6 fiscal years.

(B) Administration

For purposes of this paragraph, State and local investments in infrastructure shall include infrastructure investments made using amounts made available for activities under section 5305(a)(9) of title 42.

(Pub. L. 99-662, title II, §210, Nov. 17, 1986, 100 Stat. 4106; Pub. L. 101-640, title III, §316, Nov. 28, 1990, 104 Stat. 4641; Pub. L. 113-121, title II, §2102(a), June 10, 2014, 128 Stat. 1273.)

AMENDMENTS

2014—Subsecs. (c) to (f). Pub. L. 113-121 added subsecs. (c) to (f).

1990—Subsec. (a)(2). Pub. L. 101-640 substituted “up to 100 percent” for “not more than 40 percent”.

§ 2238a. Estimate of harbor maintenance needs

For fiscal year 2014 and each fiscal year thereafter, the President’s budget request submitted pursuant to section 1105 of title 31, United States Code, shall include—

- (1) an estimate of the nationwide average availability, expressed as a percentage, of the authorized depth and authorized width of all navigation channels authorized to be maintained using appropriations from the Harbor Maintenance Trust Fund that would result from harbor maintenance activities to be funded by the budget request; and
- (2) an estimate of the average annual amount of appropriations from the Harbor Maintenance Trust Fund that would be re-

quired to increase that average availability to 95 percent over a 3-year period.

(Pub. L. 112-141, div. A, title I, §1537, July 6, 2012, 126 Stat. 585.)

CODIFICATION

Section was enacted as part of the Moving Ahead for Progress in the 21st Century Act, also known as the MAP-21, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effective and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

§ 2238b. Funding for harbor maintenance programs

(a) Definitions

In this section:

(1) Total amount of harbor maintenance taxes received

The term “total amount of harbor maintenance taxes received” means, with respect to a fiscal year, the aggregate of amounts appropriated, transferred, or credited to the Harbor Maintenance Trust Fund under section 9505(a) of title 26 for that fiscal year as set forth in the current year estimate provided in the President’s budget request for the subsequent fiscal year, submitted pursuant to section 1105 of title 31.

(2) Total budget resources

The term “total budget resources” means the total amount made available by appropriations Acts from the Harbor Maintenance Trust Fund for a fiscal year for making expenditures under section 9505(c) of title 26.

(b) Target appropriations

(1) In general

The target total budget resources made available to the Secretary from the Harbor Maintenance Trust Fund for a fiscal year shall be not less than the following:

(A) For fiscal year 2015, 67 percent of the total amount of harbor maintenance taxes received in fiscal year 2014.

(B) For fiscal year 2016, 69 percent of the total amount of harbor maintenance taxes received in fiscal year 2015.

(C) For fiscal year 2017, 71 percent of the total amount of harbor maintenance taxes received in fiscal year 2016.

(D) For fiscal year 2018, 74 percent of the total amount of harbor maintenance taxes received in fiscal year 2017.

(E) For fiscal year 2019, 77 percent of the total amount of harbor maintenance taxes received in fiscal year 2018.

(F) For fiscal year 2020, 80 percent of the total amount of harbor maintenance taxes received in fiscal year 2019.

(G) For fiscal year 2021, 83 percent of the total amount of harbor maintenance taxes received in fiscal year 2020.

(H) For fiscal year 2022, 87 percent of the total amount of harbor maintenance taxes received in fiscal year 2021.

(I) For fiscal year 2023, 91 percent of the total amount of harbor maintenance taxes received in fiscal year 2022.

(J) For fiscal year 2024, 95 percent of the total amount of harbor maintenance taxes received in fiscal year 2023.

(K) For fiscal year 2025, and each fiscal year thereafter, 100 percent of the total amount of harbor maintenance taxes received in the previous fiscal year.

(2) Use of amounts

The total budget resources described in paragraph (1) may be used only for making expenditures under section 9505(c) of title 26.

(c) Impact on other funds

(1) Sense of Congress

It is the sense of Congress that any increase in funding for harbor maintenance programs under this section shall result from an overall increase in appropriations for the civil works program of the Corps of Engineers and not from reductions in the appropriations for other programs, projects, and activities carried out by the Corps of Engineers for other authorized purposes.

(2) Application

The target total budget resources for a fiscal year specified in subsection (b)(1) shall only apply in a fiscal year for which the level of appropriations provided for the civil works program of the Corps of Engineers in that fiscal year is increased, as compared to the previous fiscal year, by a dollar amount that is at least equivalent to the dollar amount necessary to address such target total budget resources in that fiscal year.

(Pub. L. 113–121, title II, § 2101, June 10, 2014, 128 Stat. 1272.)

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.

“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.

§ 2238c. Additional measures at donor ports and energy transfer ports

(a) Definitions

In this section:

(1) Cargo container

The term “cargo container” means a cargo container that is 1 Twenty-foot Equivalent Unit.

(2) Donor port

The term “donor port” means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulations (or a successor regulation);

(B) at which the total amount of harbor maintenance taxes collected comprise not less than \$15,000,000 annually of the total

funding of the Harbor Maintenance Trust Fund established under section 9505 of title 26;

(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected at that port in the previous 5 fiscal years; and

(D) that is located in a State in which more than 2,000,000 cargo containers were unloaded from or loaded on to vessels in fiscal year 2012.

(3) Energy commodity

The term “energy commodity” includes—

(A) petroleum products;

(B) natural gas;

(C) coal;

(D) wind and solar energy components; and

(E) biofuels.

(4) Energy transfer port

The term “energy transfer port” means a port—

(A) that is subject to the harbor maintenance fee under section 24.24 of title 19, Code of Federal Regulation (or any successor regulation); and

(B)(i) at which energy commodities comprised greater than 25 percent of all commercial activity by tonnage in fiscal year 2012; and

(ii) through which more than 40,000,000 tons of cargo were transported in fiscal year 2012.

(5) Expanded uses

The term “expanded uses” has the meaning given the term in section 2238(f) of this title.

(6) Harbor maintenance tax

The term “harbor maintenance tax” has the meaning given the term in section 2238(f) of this title.

(b) Authority

(1) In general

Subject to the availability of appropriations, the Secretary may provide to donor ports and energy transfer ports amounts in accordance with this section.

(2) Limitations

Amounts provided under this section—

(A) for energy transfer ports shall be divided equally among all States with an energy transfer port; and

(B) shall be made available to a port as either a donor port or an energy transfer port and no port may receive amounts as both a donor port and an energy transfer port.

(c) Use of funds

Amounts provided under this section may be used by a donor port or an energy transfer port—

(1) to provide payments to importers entering cargo or shippers transporting cargo through that port, as calculated by U.S. Customs and Border Protection according to the amount of harbor maintenance taxes collected;

(2) for expanded uses; or

(3) for environmental remediation related to dredging berths and Federal navigation channels.