

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) Exception

If the target total budget resources for a fiscal year described in subparagraphs (A) through (J) of subsection (b)(1) is lower than the target total budget resources for the previous fiscal year, the target total budget resources shall be adjusted to be equal to the lesser of—

(1) 103 percent of the total budget resources appropriated for the previous fiscal year; or

(2) 100 percent of the total amount of harbor maintenance taxes received in the previous fiscal year.

(d) 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 ap-

propriations 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; Pub. L. 114–322, title I, §1108, Dec. 16, 2016, 130 Stat. 1634.)

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

Subsec. (b)(1). Pub. L. 114–322, §1108(1), substituted “Except as provided in subsection (c), the target total” for “The target total” in introductory provisions.

Subsecs. (c), (d). Pub. L. 114–322, §1108(2), (3), added subsec. (c) and redesignated former subsec. (c) as (d).

“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) Discretionary cargo

The term “discretionary cargo” means maritime cargo for which the United States port of unloading is different than the United States port of entry.

(3) Donor port

(A) In general

The term “donor port” means a port—

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

(ii) 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;

(iii) 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

(iv) 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.

(B) Calculation

For the purpose of calculating the percentage described in subparagraph (A)(iii), payments described under subsection (c)(1) shall not be included.

(4) Energy commodity

The term “energy commodity” includes—

- (A) petroleum products;
- (B) natural gas;
- (C) coal;
- (D) wind and solar energy components; and
- (E) biofuels.

(5) 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 Regulations (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.

(6) Expanded uses

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

(7) Harbor maintenance tax

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

(8) Medium-sized donor port

The term “medium-sized 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 annually more than \$5,000,000 but less than \$15,000,000 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 onto vessels in fiscal year 2012.

(b) Authority**(1) In general**

Subject to the availability of appropriations, the Secretary may provide to donor ports, medium-sized 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;

(B) shall be made available to a port as either a donor port, medium-sized donor port, or an energy transfer port, and no port may receive amounts from more than 1 designation; and

(C) for donor ports and medium-sized donor ports—

(i) 50 percent of the funds shall be equally divided between the eligible donor ports as authorized by this section; and

(ii) 50 percent of the funds shall be divided between the eligible donor ports and eligible medium-sized donor ports based on the percentage of the total harbor maintenance tax revenues generated at each eligible donor port and medium-sized donor port.

(c) Use of funds

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

(1) to provide payments to importers entering cargo through that port, as calculated by the Secretary according to the value of discretionary cargo;

(2) for expanded uses; or

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

(d) Administration of payments**(1) In general**

If a donor port, a medium-sized donor port, or an energy transfer port elects to provide payments to importers under subsection (c), the Secretary shall transfer to the Commissioner of U.S. Customs and Border Protection an amount equal to those payments that would otherwise be provided to the port under this section to provide the payments to the importers of the discretionary cargo that is—

(A) shipped through the port; and

(B) most at risk of diversion to seaports outside of the United States.

(2) Requirement

The Secretary, in consultation with a port electing to provide payments under subsection (c), shall determine the top importers at the port, as ranked by the value of discretionary cargo, and payments shall be limited to those top importers.

(e) Report to Congress**(1) In general**

Not later than 18 months after June 10, 2014, the Secretary shall assess the impact of the authority provided by this section and submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives and make publicly available a report on the results of that assessment, including any recommendations for amending or reauthorizing the authority.

(2) Factors

In carrying out the assessment under paragraph (1), the Secretary shall assess—

(A) the impact of the amounts provided and used under this section on those ports that received funds under this section; and

(B) any impact on domestic harbors and ports that did not receive funds under this section.

(f) Authorization of appropriations**(1) In general**

There is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 2015 through 2020.

(2) Division between donor ports, medium-sized donor ports, and energy transfer ports

For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to—

- (A) donor ports and medium-sized donor ports; and
- (B) energy transfer ports.

(3) Additional appropriations

If the target total budget resources under subparagraphs (A) through (D) of section 2238b(b)(1) of this title are met for each of fiscal years 2016 through 2020, there is authorized to be appropriated to carry out this section \$50,000,000 for each of fiscal years 2021 through 2025.

(g) Savings clause

Nothing in this section waives any statutory requirement related to the transportation of merchandise as authorized under chapter 551 of title 46.

(Pub. L. 113–121, title II, §2106, June 10, 2014, 128 Stat. 1280; Pub. L. 114–322, title I, §1110, Dec. 16, 2016, 130 Stat. 1634.)

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—Subsec. (a)(2). Pub. L. 114–322, §1110(1)(B), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 114–322, §1110(1)(C), designated existing provisions as subpar. (A) and inserted heading, redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, of subpar. (A), and added subpar. (B).

Pub. L. 114–322, §1110(1)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 114–322, §1110(1)(A), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 114–322, §1110(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (a)(5)(A). Pub. L. 114–322, §1110(1)(D), substituted “Code of Federal Regulations” for “Code of Federal Regulation”.

Subsec. (a)(6), (7). Pub. L. 114–322, §1110(1)(A), redesignated pars. (5) and (6) as (6) and (7), respectively.

Subsec. (a)(8). Pub. L. 114–322, §1110(1)(E), added par. (8).

Subsec. (b)(1). Pub. L. 114–322, §1110(2)(A), substituted “donor ports, medium-sized donor ports,” for “donor ports”.

Subsec. (b)(2)(B), (C). Pub. L. 114–322, §1110(2)(B), added subpars. (B) and (C) and struck out former subpar. (B) which read as follows: “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.”

Subsec. (c). Pub. L. 114–322, §1110(3)(A), substituted “donor port, a medium-sized donor port,” for “donor port” in introductory provisions.

Subsec. (c)(1). Pub. L. 114–322, §1110(3)(B), struck out “or shippers transporting cargo” after “entering cargo” and substituted “the Secretary” for “U.S. Customs and Border Protection” and “value of discretionary cargo” for “amount of harbor maintenance taxes collected”.

Subsec. (d). Pub. L. 114–322, §1110(4), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “If a donor port or an energy transfer port elects to provide payments to importers

or shippers under subsection (c), the Secretary shall transfer the amount that would otherwise be provided to the port under this section that is equal to those payments to the Commissioner of U.S. Customs and Border Protection to provide the payments to the importers or shippers.”

Subsec. (f)(1). Pub. L. 114–322, §1110(5)(A), substituted “2020” for “2018”.

Subsec. (f)(2). Pub. L. 114–322, §1110(5)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “For each fiscal year, amounts made available to carry out this section shall be provided in equal amounts to donor ports and energy transfer ports.”

Subsec. (f)(3). Pub. L. 114–322, §1110(5)(C), substituted “2016 through 2020” for “2015 through 2018” and “2021 through 2025” for “2019 through 2022”.

Subsec. (g). Pub. L. 114–322, §1110(6), added subsec. (g).

“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.

§ 2238d. Maintenance of harbors of refuge

The Secretary is authorized to maintain federally authorized harbors of refuge to restore and maintain the authorized dimensions of the harbors.

(Pub. L. 114–322, title I, §1109, Dec. 16, 2016, 130 Stat. 1634.)

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2016, and also as part of the Water Infrastructure Improvements for the Nation Act, also known as the WIIN Act, 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 1002 of Pub. L. 114–322, set out as a note under section 2201 of this title.

§ 2239. Repealed. Pub. L. 101–640, title IV, § 412(f), Nov. 28, 1990, 104 Stat. 4650

Section, Pub. L. 99–662, title II, §211, Nov. 17, 1986, 100 Stat. 4106; Pub. L. 100–676, §32, Nov. 17, 1988, 102 Stat. 4030, directed Administrator of Environmental Protection Agency to designate one or more sites for disposal of dredged material as an alternative to disposal at the Mud Dump in New Jersey.

SEDIMENTS DECONTAMINATION TECHNOLOGY

Pub. L. 102–580, title IV, §405, Oct. 31, 1992, 106 Stat. 4863, as amended by Pub. L. 104–303, title II, §226, Oct. 12, 1996, 110 Stat. 3697; Pub. L. 106–53, title II, §204, Aug. 17, 1999, 113 Stat. 285, provided that:

“(a) DECONTAMINATION PROJECT.—

“(1) SELECTION OF TECHNOLOGIES.—Based upon a review of decontamination technologies identified pursuant to section 412(c) of the Water Resources Development Act of 1990 [Pub. L. 101–640, set out below], the Administrator of the Environmental Protection Agency and the Secretary shall, within 1 year after the date of the enactment of this Act [Oct. 31, 1992], jointly select removal, pre-treatment, post-treatment, and decontamination technologies for contaminated marine sediments for a decontamination project in the New York/New Jersey Harbor.

“(2) RECOMMENDED PROGRAM.—Upon selection of technologies, the Administrator and the Secretary shall jointly recommend a program of selected technologies to assess their effectiveness in rendering sediments acceptable for unrestricted ocean disposal or beneficial reuse, or both.