

Subsec. (f)(4)(C), (D). Pub. L. 116-260, §102(b)(3)(D), added subpars. (C) and (D).

Subsec. (f)(5). Pub. L. 116-260, §102(b)(3)(B), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(6). Pub. L. 116-260, §102(b)(3)(A), (B), redesignated par. (5) as (6) and struck out former par. (6) which defined “high-use harbor project”.

2018—Subsec. (e)(1). Pub. L. 115-270, §1216(1), substituted “shall assess, and issue a report to Congress on, the” for “shall assess the”.

Subsec. (e)(2)(C). Pub. L. 115-270, §1216(2), added subpar. (C).

2016—Subsec. (c)(3). Pub. L. 114-322, §1103(1), substituted “for each fiscal year” for “for each of fiscal years 2015 through 2022”.

Subsec. (d)(1)(A). Pub. L. 114-322, §1103(2), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: “For each of fiscal years 2015 through 2024, if priority funds are available, the Secretary shall use the priority funds as follows:

“(i) 90 percent of the priority funds shall be used for high- and moderate-use harbor projects.

“(ii) 10 percent of the priority funds shall be used for emerging harbor projects.”

Subsec. (d)(1)(B). Pub. L. 114-322, §1107, substituted “For each fiscal year” for “For each of fiscal years 2015 through 2024” in introductory provisions.

Subsec. (e)(3)(B), (C). Pub. L. 114-322, §1114, added subpar. (B) and redesignated former subpar. (B) as (C).

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”.

#### Statutory Notes and Related Subsidiaries

##### AUTHORIZATION OF APPROPRIATIONS FOR NAVIGATION

Pub. L. 116-260, div. AA, title I, §102(a), Dec. 27, 2020, 134 Stat. 2618, provided that:

“(1) IN GENERAL.—In carrying out subsection (c) of section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238), for each fiscal year, of the funds made available under such section (including funds appropriated from the Harbor Maintenance Trust Fund), the Secretary [of the Army] shall, to the extent practicable, unless otherwise directed in an Act making appropriations for the Corps of Engineers, make expenditures to pay for operation and maintenance costs of the harbors and inland harbors referred to in subsection (a)(2) of such section, to the extent there are identifiable operations and maintenance needs, of—

“(A) not less than 15 percent of such funds for emerging harbor projects, including eligible breakwater and jetty needs at such harbor projects;

“(B) not less than 13 percent of such funds for projects that are located within the Great Lakes Navigation System;

“(C) 12 percent of such funds for expanded uses carried out at donor ports and energy transfer ports, of which—

“(i) ½ shall be provided to energy transfer ports; and

“(ii) ¾ shall be provided to donor ports;

“(D) not less than 17 percent of such funds for projects that are assigned to commercial strategic seaports; and

“(E) any remaining funds for operation and maintenance costs of any harbor or inland harbor referred to in such subsection (a)(2) [33 U.S.C. 2238(a)(2)] based on an equitable allocation of such funds among such harbors and inland harbors, in accordance with subsection (c)(1) of such section 210 [33 U.S.C. 2238(c)(1)].

“(2) DEFINITIONS.—In this subsection:

“(A) COMMERCIAL STRATEGIC SEAPORT.—The term ‘commercial strategic seaport’ means a commercial harbor supporting the coordination of efficient port operations during peacetime and national defense emergencies that is designated as strategic through the National Port Readiness Network.

“(B) DONOR PORT; ENERGY TRANSFER PORT.—The terms ‘donor port’ and ‘energy transfer port’ have the meanings given those terms in section 2106 of the Water Resources Reform and Development Act of 2014 (33 U.S.C. 2238c).

“(C) EMERGING HARBOR PROJECT; GREAT LAKES NAVIGATION SYSTEM.—The terms ‘emerging harbor project’ and ‘Great Lakes Navigation System’ have the meanings given those terms in section 210 of the Water Resources Development Act of 1986 (33 U.S.C. 2238).

“(3) EFFECTIVE DATE.—This subsection shall take effect on October 1, 2022.”

#### GUIDANCE

Pub. L. 113-121, title II, §2102(d), as added by Pub. L. 114-322, title I, §1112, Dec. 16, 2016, 130 Stat. 1637, provided that: “Not later than 90 days after the date of enactment of the Water Resources Development Act of 2016 [Dec. 16, 2016], the Secretary [of the Army] shall publish on the website of the Corps of Engineers guidance on the implementation of this section [amending this section, section 2211 of this title, and section 9505 of Title 26, Internal Revenue Code] and the amendments made by this section.”

#### § 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 required 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.)

#### Editorial Notes

##### 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.

#### Statutory Notes and Related Subsidiaries

##### 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