

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**

Except as provided in subsection (c), 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) 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 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; Pub. L. 114–322, title I, § 1108, Dec. 16, 2016, 130 Stat. 1634.)

**Editorial Notes**

**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).

**Statutory Notes and Related Subsidiaries**

**“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.

**§ 2238b–1. Budgetary treatment expansion and adjustment for the Harbor Maintenance Trust Fund**

Any discretionary appropriation for the Corps of Engineers—

(1) derived from the Harbor Maintenance Trust Fund, in this fiscal year and thereafter, not to exceed the sum of—

(A) the total amount deposited in the Harbor Maintenance Trust Fund in the fiscal year that is two years prior to the fiscal year for which the appropriation is being made; and

(B)(i) \$500,000,000 for fiscal year 2021;

(ii) \$600,000,000 for fiscal year 2022;

(iii) \$700,000,000 for fiscal year 2023;

(iv) \$800,000,000 for fiscal year 2024;

(v) \$900,000,000 for fiscal year 2025;

(vi) \$1,000,000,000 for fiscal year 2026;

(vii) \$1,200,000,000 for fiscal year 2027;

(viii) \$1,300,000,000 for fiscal year 2028;

(ix) \$1,400,000,000 for fiscal year 2029; and

(x) \$1,500,000,000 for fiscal year 2030 and thereafter; and

(2) for the Operation and Maintenance account of the Corps of Engineers which is designated in statute as being to carry out subsection (c) of section 2238c of this title, not to exceed—

- (A) \$50,000,000 for fiscal year 2021;
- (B) \$50,000,000 for fiscal year 2022;
- (C) \$56,000,000 for fiscal year 2023;
- (D) \$58,000,000 for fiscal year 2024;
- (E) \$60,000,000 for fiscal year 2025;
- (F) \$62,000,000 for fiscal year 2026;
- (G) \$64,000,000 for fiscal year 2027;
- (H) \$66,000,000 for fiscal year 2028;
- (I) \$68,000,000 for fiscal year 2029; and
- (J) \$70,000,000 for fiscal year 2030;

shall be subtracted from the estimate of discretionary budget authority and outlays for any estimate of an appropriations Act under the Congressional Budget and Impoundment Control Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985.

(Pub. L. 116-136, div. B, title IV, §14003, Mar. 27, 2020, 134 Stat. 526; Pub. L. 116-260, div. AA, title I, §101, Dec. 27, 2020, 134 Stat. 2618.)

### Editorial Notes

#### REFERENCES IN TEXT

The Congressional Budget and Impoundment Control Act of 1974, referred to in concluding provisions, is Pub. L. 93-344, July 12, 1974, 88 Stat. 297. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in concluding provisions, is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of Title 42, The Public Health and Welfare, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of Title 42, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

#### CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2020, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

#### AMENDMENTS

2020—Pub. L. 116-260 amended section generally. Prior to amendment, text read as follows: “Any discretionary appropriation for the Corps of Engineers derived from the Harbor Maintenance Trust Fund (not to exceed the total amount deposited in the Harbor Maintenance Trust Fund in the prior fiscal year) shall be subtracted from the estimate of discretionary budget authority and outlays for any estimate of an appropriations Act under the Congressional Budget and Impoundment Control Act of 1974 or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided*, That the modifications described in this section shall not take effect until the earlier of January 1, 2021 or the date of enactment of legislation authorizing the development of water resources and shall remain in effect thereafter.”

### § 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.