

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 unlading 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 (including the estimated taxes related to domestic cargo and cruise passengers) comprise not less than \$15,000,000 annually of the total funding of the Harbor Maintenance Trust Fund on an average annual basis for the previous 3 fiscal years;

(iii) that received less than 25 percent of the total amount of harbor maintenance taxes collected (including the estimated taxes related to domestic cargo and cruise passengers) at that port in the previous 3 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 on an average annual basis for the previous 3 fiscal years.

(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 on an average annual basis for the previous 3 fiscal years; and
(ii) through which more than 40,000,000 tons of cargo were transported on an average annual basis for the previous 3 fiscal years.

(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) Harbor maintenance trust fund

The term “Harbor Maintenance Trust Fund” means the Harbor Maintenance Trust Fund established by section 9505 of title 26.

(9) 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 (including the estimated taxes related to domestic cargo and cruise passengers) comprise annually more than \$5,000,000 but less than \$15,000,000 of the total funding of the Harbor Maintenance Trust Fund on an average annual basis for the previous 3 fiscal years;

(C) that received less than 25 percent of the total amount of harbor maintenance taxes collected (including the estimated taxes related to domestic cargo and cruise passengers) at that port in the previous 3 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 on an average annual basis for the previous 3 fiscal years.

(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