

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).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. AA, title I, §104(b)(3), Dec. 27, 2020, 134 Stat. 2622, provided that: “The amendments made by this subsection [amending this section] shall take effect on October 1, 2022.”

“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.)

Editorial Notes

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.

Statutory Notes and Related Subsidiaries

“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.

§ 2238e. Additional projects for underserved community harbors

(a) In general

Subject to the availability of appropriations designated by statute as being for the purpose of carrying out this section, the Secretary may carry out projects for underserved community harbors for purposes of sustaining water-dependent commercial and recreational activities at such harbors and for purposes of contributing to ecosystem restoration.

(b) Beneficial use

(1) Justification

The Secretary may carry out a project under this section involving a disposal option for the beneficial use of dredged material that is not the least cost disposal option if the Secretary determines that the incremental cost of the disposal option is reasonable pursuant to the standard described in section 2326(d)(1) of this title.

(2) Cost share

The non-Federal share of the incremental cost of a project carried out under this section involving a disposal option for the beneficial use of dredged material that is not the least cost disposal option shall be determined as provided under subsections (a) through (d) of section 2213 of this title.

(c) Prioritization

The Secretary shall prioritize carrying out projects using funds made available under this section based on an assessment of—

(1) the local or regional economic benefits of the project;

(2) the environmental benefits of the project, including the benefits to the aquatic environment to be derived from the creation of wetland and control of shoreline erosion; and

(3) other social effects of the project, including protection against loss of life and contributions to local or regional cultural heritage.

(d) Clarification

The Secretary shall not require the non-Federal interest for a project carried out under this section to perform additional operation and maintenance activities at the beneficial use placement site or the disposal site for such project as a condition of receiving assistance under this section.

(e) Federal participation limit

The Federal share of the cost of a project under this section shall not exceed \$10,000,000.

(f) Statutory construction

Projects carried out under this section shall be in addition to operation and maintenance ac-

tivities otherwise carried out by the Secretary for underserved community harbors using funds appropriated pursuant to section 2238 of this title or section 102(a) of the Water Resources Development Act of 2020 (33 U.S.C. 2238 note).

(g) Definitions

In this section:

(1) Project

The term “project” means a single cycle of maintenance dredging of an underserved community harbor and any associated placement of dredged material at a beneficial use placement site or disposal site.

(2) Underserved community harbor

The term “underserved community harbor” means an emerging harbor (as defined in section 2238(f) of this title), a harbor where passenger or freight service is provided to island communities dependent on that service, or a marina or berthing area that is located adjacent to, or is accessible by, a Federal navigation project, for which—

(A) no Federal funds have been obligated for maintenance dredging in the current fiscal year or in any of the 4 preceding fiscal years; and

(B) State and local investments in infrastructure have been made during any of the 4 preceding fiscal years.

(h) Authorization of appropriations

(1) In general

There is authorized to be appropriated to carry out this section \$50,000,000 from the General Fund of the Treasury for each of fiscal years 2023 through 2029, to be deposited into the “CORPS OF ENGINEERS—CIVIL—OPERATION AND MAINTENANCE” account.

(2) Special rule

Not less than 35 percent of the amounts made available to carry out this section for each fiscal year shall be used for projects involving the beneficial use of dredged material.

(i) Projects for marina or berthing areas

The Secretary may carry out not more than 10 projects under this section that are projects for an underserved community harbor that is a marina or berthing area described in subsection (g)(2).

(Pub. L. 117–263, div. H, title LXXXI, §8132, Dec. 23, 2022, 136 Stat. 3719; Pub. L. 118–272, div. A, title III, §1356, Jan. 4, 2025, 138 Stat. 3161.)

Editorial Notes

REFERENCES IN TEXT

Section 102(a) of the Water Resources Development Act of 2020, referred to in subsection (f), is section 102(a) of div. AA of Pub. L. 116–260, which is set out as a note under section 2238 of this title.

CODIFICATION

Section was enacted as part of the Water Resources Development Act of 2022, and also as part of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, and not as part of the Water Resources Development Act of 1986 which comprises this chapter.

AMENDMENTS

2025—Subsec. (a). Pub. L. 118–272, §1356(1), inserted “and for purposes of contributing to ecosystem restoration” before period at end.

Subsec. (g)(2). Pub. L. 118–272, §1356(2), in introductory provisions, inserted “, a harbor where passenger or freight service is provided to island communities dependent on that service, or a marina or berthing area that is located adjacent to, or is accessible by, a Federal navigation project,” before “for which”.

Subsec. (h)(1). Pub. L. 118–272, §1356(3), substituted “2029” for “2026”.

Subsec. (i). Pub. L. 118–272, §1356(4), added subsec. (i).

Statutory Notes and Related Subsidiaries

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 8002 of Pub. L. 117–263, 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.

Statutory Notes and Related Subsidiaries

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.

“(3) PROJECT PURPOSE.—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot scale demonstrating a capacity of at least 500,000 cubic yards per year.

“(4) PRACTICAL END-USE PRODUCTS.—Technologies selected for demonstration at the pilot scale shall be intended to result in practical end-use products.

“(5) ASSISTANCE BY THE SECRETARY.—The Secretary shall assist the project to ensure expeditious completion by providing sufficient quantities of contaminated dredged material to conduct the full-scale demonstrations to stated capacity.

“(b) DECONTAMINATION DEFINED.—For purposes of this section, ‘decontamination’ may include local or remote prototype or production and laboratory decontamination technologies, sediment pre-treatment and post-treatment processes, and siting, economic, or other measures necessary to develop a matrix for selection of interim prototype of long-term processes. Decontamination techniques need not be preproven in terms of likely success.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$22,000,000 to complete technology testing, technology commercialization, and the development of full scale processing facilities within the New York/New Jersey