

## 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.)

## 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.

## 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 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 ap-