

(A) the total funds that are made available under this section to pay the costs described in subsection (a)(2) for a fiscal year; and

(B) the total funds made available under this section to pay the costs described in subsection (a)(2) in fiscal year 2012.

**(9) Underserved harbor project**

**(A) In general**

The term “underserved harbor project” means a project that is assigned to a harbor or inland harbor referred to in subsection (a)(2)—

(i) that is a moderate-use harbor project or an emerging harbor project;

(ii) that has been maintained at less than the constructed width and depth of the project during each of the preceding 6 fiscal years; and

(iii) for which State and local investments in infrastructure have been made at those projects during the preceding 6 fiscal years.

**(B) Administration**

For purposes of this paragraph, State and local investments in infrastructure shall include infrastructure investments made using amounts made available for activities under section 5305(a)(9) of title 42.

(Pub. L. 99–662, title II, §210, Nov. 17, 1986, 100 Stat. 4106; Pub. L. 101–640, title III, §316, Nov. 28, 1990, 104 Stat. 4641; Pub. L. 113–121, title II, §2102(a), June 10, 2014, 128 Stat. 1273; Pub. L. 114–322, title I, §§1103, 1107, 1114, Dec. 16, 2016, 130 Stat. 1633, 1634, 1638; Pub. L. 115–270, title I, §1216, Oct. 23, 2018, 132 Stat. 3810.)

REFERENCES IN TEXT

Section 1122 of the Water Resources Development Act of 2016, referred to in subsec. (e)(2)(C), is section 1122 of Pub. L. 114–322, title I, §1122, Dec. 16, 2016, 130 Stat. 1645. Subsecs. (a) to (h) of section 1122 are set out as a note under section 2326 of this title. Subsec. (i) of section 1122 amended section 2326 of this title. Subsec. (j) of section 1122 amended section 1962d–5f of Title 42, The Public Health and Welfare. For complete classification of this section to the Code, see Tables.

AMENDMENTS

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”.

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