



Position Paper

Harbor Maintenance Trust Fund

Summary:

The Harbor Maintenance Tax is a fee collected from users of the maritime transportation system in order to fund the Army Corps of Engineers' operation and maintenance activities. In the Great Lakes, these activities include regular dredging of harbors, maintenance of breakwaters, and operation of the Soo Locks. Despite the fact that adequate revenue is being collected (approximately \$1.66 billion annually), Congress has restricted spending on harbor maintenance due to budgetary constraints. The result is crumbling infrastructure and harbors choked with sand and silt. In the Great Lakes region there is a \$200 million dredging backlog. Breakwaters need \$250 million in repairs, and the Soo Locks require \$115.5 million in upgrades.

The Water Resources Reform and Development Act (WRRDA) called for full use of harbor maintenance tax revenue and laid out incrementally larger spending targets between FY2015-25.

AGLPA Position:

Congress should follow the spirit of the WRRDA legislation and provide at least \$1.263 billion in the FY2017 Energy and Water Development Appropriations Bill to fund the Corps of Engineers' operation and maintenance activities.

Additional Background:

The U.S. Harbor Maintenance Tax (HMT) was enacted by Congress in the Water Resources Development Act of 1986 (P.L. 99-662). The HMT is an "ad valorem" tax, meaning a tax on the value of cargo. Originally, Congress set the HMT at 0.04 percent of the value of cargo carried on ships. In 1990, the tax was increased to 0.125 percent of the value of cargo. The tax is not paid by the vessel owner, nor the port, but rather, by the owner of the cargo in each ship.

While the original tax applied to all cargo transported by ship (with a few exceptions), in 1998 the Supreme Court struck down the taxation of export cargo as unconstitutional. Thus, today, the Harbor Maintenance Tax is assessed on cargo transported between any two U.S. coastal ports - including Great Lakes ports - and cargo imported to U.S. ports from other countries. The tax is not assessed on export cargo.

It is important to note that the Harbor Maintenance Tax is also not assessed on shipments through inland river ports. Congress has enacted a separate user fee for the river barge industry. (Commercial barge operators pay a federal fuel tax).

The purpose of the HMT is to generate revenue from port users for port maintenance conducted by the U.S. Army Corps of Engineers. Specifically, the Army Corps of Engineers maintains federal shipping channels by conducting periodic dredging. Such dredging is necessary to remove sand and silt that naturally accumulate. In the Great Lakes the Corps of Engineers also engages in additional operation and maintenance activities such as repair of breakwaters and operation of the Soo Locks.

Harbor Maintenance Tax receipts are placed in the Harbor Maintenance Trust Fund, which serves as a source of revenue for the Army Corps of Engineers' dredging budget. However, there is no direct link between the inflow of tax revenue to the federal government and the outflow of dredging funds. Tax collections are determined by the volume of trade, which has generally grown over the last two decades. Last year, tax revenues were estimated at \$1.66 billion. Expenditures are determined by the Congressional budget and appropriations process, which is increasingly constrained. Last year, Congress appropriated \$1.263 billion for trust fund eligible expenses. For this reason, at the beginning of calendar year 2016 there was an excess balance of approximately \$9 billion in the Harbor Maintenance Trust Fund.

Full Use of the Tax

Section 2101 of the Water Resources Reform and Development Act of 2014 (WRRDA) calls for increased spending from the Harbor Maintenance Trust Fund and lays out a series of funding targets between FY2015-25, with the goal of reaching full utilization of the tax by 2025. The ten year targets are:

For fiscal year 2015, 67 percent of the HMT received the prior fiscal year.
For fiscal year 2016, 69 percent of the HMT received the prior fiscal year.
For fiscal year 2017, 71 percent of the HMT received the prior fiscal year.
For fiscal year 2018, 74 percent of the HMT received the prior fiscal year.
For fiscal year 2019, 77 percent of the HMT received the prior fiscal year.
For fiscal year 2020, 80 percent of the HMT received the prior fiscal year.
For fiscal year 2021, 83 percent of the HMT received the prior fiscal year.
For fiscal year 2022, 87 percent of the HMT received the prior fiscal year.
For fiscal year 2023, 91 percent of the HMT received the prior fiscal year.
For fiscal year 2024, 95 percent of the HMT received the prior fiscal year.
For fiscal year 2025, 100 percent of the HMT received the prior fiscal year.

This scheme has provided a useful roadmap to achieve a key policy goal - full use of the Harbor Maintenance Tax. For the first two years of this plan, Congress met the WRRDA targets.

FY2017 Target

FY2017 has presented a unique circumstance in that Harbor Maintenance Tax receipts dropped in FY2016 to \$1.66 billion from a previous level of \$1.81 billion. Such a loss of revenue is unprecedented in recent memory and it is assumed to be driven by the drop in the price of key commodities, such as oil.

As noted above, the funding target for the upcoming fiscal year is 71 percent of the previous year HMT revenue. In FY2016 HMT revenue was \$1.66 billion, thus the FY2017 spending target is \$1.18 billion.

Following the WRRDA formula for FY2017 would yield a funding target that is below last year's appropriated level, which was \$1.263 billion. Moving backward and providing less funding was clearly not Congress' goal in enacting WRRDA.

In light of the unique circumstance in FY2017 - largely driven by a drop in tax revenue - Great Lakes ports are not urging Congress to follow the WRRDA target, but rather, provide at least level funding for the program in FY2017 at \$1.263 billion.