



2025 Position Paper

ELIMINATE THE CORPS OF ENGINEERS' GREAT LAKES NAVIGATION MAINTENANCE BACKLOG

Summary:

Due to years of inadequate funding, the U.S. Army Corps of Engineers has been unable to maintain Great Lakes navigation infrastructure. Over the next five years, Great Lakes navigation channels will require \$700 million of dredging to maintain authorized channel dimensions. Breakwaters and other federal navigation structures need \$705 million in repairs, and the Soo Locks require \$310 million in upgrades.

Maintenance activities for coastal and Great Lakes navigation are funded from the Harbor Maintenance Trust Fund (HMTF), which is financed by the Harbor Maintenance Tax (HMT) – a fee collected from users of the maritime transportation system. Although the tax generates adequate revenue to address the nation's navigation maintenance needs, over the last two decades Congress has restricted spending due to budgetary constraints. The result has been crumbling infrastructure and harbors choked with sand and silt.

AGLPA Position

The Water Resources Reform and Development Act of 2014 (WRRDA 2014) established a 10 percent set aside for emerging harbors and Great Lakes Harbors in the HMTF, which was later increased to 13 percent in the Water Resources Development Act of 2020 (WRDA 2020). The Cares Act (P.L. 116-136) eliminated budget constraints and allows full use of HMTF revenue. It is also meant to spend down the trust fund's surplus balance. For FY2025 the amount free from budget constraints is the sum of 1) amounts deposited into the HMTF two fiscal years prior, plus 2) \$900 million. This calculation yields an off-budget amount of \$3.087 billion for FY2025. We expect the FY2026 amount to be similar or slightly greater.

As Congress continues work on the FY2025 Energy and Water Development Appropriations Bill, it should fulfill the goals of WRRDA 2014 and amendments in WRDA 2020 and appropriate no less than \$3.087 billion from the HMTF for the Corps' coastal navigation operation and maintenance program.

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. As a result, the HMT 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 HMT is also not assessed on shipments through inland river ports. Congress has enacted a separate user fee for the river barge industry.

The purpose of the HMT is to generate revenue from port users for port and navigation infrastructure maintenance conducted by the U.S. Army Corps of Engineers. Specifically, the 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 repairing breakwaters and operation of locks.

HMT receipts (currently approximately \$2.1 billion per year) are placed in the HMTF, which serves as a source of revenue from which Congress appropriates funds for the Corps of Engineers' maintenance activities. Unfortunately, there is no statutory link between the inflow of tax revenue to the federal government and the outflow of maintenance funds. Tax collections are determined by the volume and value of trade, which has generally grown over the last two decades. Expenditures are determined by the Congressional budget and appropriations process, which has historically been constrained. For this reason, a multi-billion-dollar excess balance has developed in the HMTF.

Despite this surplus, the Corps of Engineers' maintenance needs in the Great Lakes region remain unaddressed. The Corps estimates that over the next five years, Great Lakes navigation channels will require \$700 million of dredging to maintain authorized dimensions, breakwaters and jetties need \$705 million in repairs, and the two existing navigation locks at Sault Ste Marie, Michigan require \$310 million in maintenance. Ports and waterways in other regions of the United States are suffering from a similar lack of maintenance.

To address these infrastructure needs, WRRDA 2014 and WRDA 2020 include language to provide special budgetary treatment to appropriations from the HMTF. While the law does not force House and Senate appropriators to spend money, it effectively removes any incentive not to. This special budgetary treatment is calculated according to a formula in the legislation. Each year, the cap is calculated by adding: 1) HMTF deposits two fiscal years prior + 2) the following amounts:

in FY2021	\$500 million
in FY2022	\$600 million
in FY2023	\$700 million
in FY2024	\$800 million
in FY2025	\$900 million
in FY2026	\$1 billion

in FY2027	\$1.2 billion
in FY2028	\$1.3 billion
in FY2029	\$1.4 billion
in FY2030	\$1.5 billion

This formula should allow Congress to not only spend incoming HMT revenue, but also incrementally spend-down the surplus balance currently in the trust fund.

Finally, WRDA 2020 also included a key provision to ensure that the Great Lakes region benefit from increased HMTF spending. The law requires that no less than 13 percent of annual expenditures from the HMTF be directed to maintenance projects in the Great Lakes Navigation System.

PFAS Concerns May Impact Dredging:

Per- and poly-fluoroalkyl (PFAS) compounds have become a major concern in the Great Lakes region:

- Understanding of PFAS and the risks that certain PFAS may pose is rapidly evolving and USACE is researching the presence of PFAS in dredged material. Current knowledge gaps preclude the Corps from fully interpreting PFAS levels in sediment.
- Regulations are still evolving which could impact placement of dredged material, liability of hazardous material placed upland could fall on USACE with increased costs (sampling, dredging, transportation, placement).

Recent challenges have emerged regarding state issued 401 Water Quality Certifications (WQC). The State of Michigan has started requiring PFAS testing to obtain WQCs at select harbors in the Great Lakes with one recent example being Grand Haven Inner Harbor. Any PFAS work including testing is required to be approved at HQ USACE. This has delayed dredging in Grand Haven and put navigation at risk on the inner harbor. Furthermore, Michigan has not established PFAS criteria for sediments so it is impossible to predict when USACE will be able to dredge the inner harbor of Grand Haven. These testing requirements will likely delay other dredging within the Great Lakes Navigation System.