
DEEP Act

The recent enlargement of the Panama Canal has spurred greater interest in deepening ports to accommodate larger ships and thus more cargo.¹ However, to accommodate these larger ships and increased cargo, ports must be deep enough for the vessels to safely navigate and dock. In order to deepen or expand ports and navigation channels, the United States need to engage in more dredging projects.

Dredging is the removal of sediment and debris from the bottom of harbors, lakes, rivers, and other bodies of water. According to the National Oceanic and Atmospheric Administration (NOAA), simply expanding the depth of our ports by one inch can allow for millions of dollars of additional cargo,² for example 50 more tractors, 5,000 televisions, 30,000 laptops, or 777,000 bushels of wheat.³

Unfortunately, dredging can be expensive. In fact, the annual cost per cubic yard of dredged material, adjusted for inflation, has skyrocketed from \$1.74 in 1970 to \$5.77 in 2018 – an increase of 232%.⁴

There are multiple reasons for the cost increase, but the Government Accountability Office has noted that the lack of competition for dredge ships is among them.⁵ This is largely due to laws like the Foreign Dredge Act of 1906, which restricts U.S. dredging projects to vessels that are solely U.S. built, U.S. crewed, and U.S. flagged. Further, the Congressional Research Service has noted that the regulatory requirements of the Clean Water Act that are enforced by the Army Corps of Engineers (Army Corps) significantly contribute to the costs of dredging projects. They can also restrict dredging and dredged material disposal to winter months when bad weather raises costs.

Bill Specifics:

The Dredging to Ensure the Empowerment of Ports (DEEP) Act would support more economic opportunities at our ports. It would:

- Repeal the Foreign Dredge Act of 1906
- Require the Army Corps to create a new Nationwide Permit (NWP) for dredging projects at a port or the navigation channel of a port with clear regional conditions.
 - Require the NWP be issued for 10 years
 - Require the NEPA process for the NWP be completed within 2 years with only technologically and economically feasible alternatives considered
 - Require the Army Corps to eliminate the duplication between the Section 404 and Section 408 processes of the Clean Water Act
 - Remove EPA's enforcement and oversight over the Section 404 permitting process under the NWP
- Provide clear response times from the Army Corps for individuals seeking pre-construction approval for a dredging project so that project managers have certainty about the decision-making process.
- Require any dredging project mitigation required by the Army Corps be technologically and economically feasible and within its jurisdiction.

¹ John Frittelli, *Federal Freight Policy: In Brief*; Congressional Research Service, Report R44367, February 26, 2020.

² NOAA, *An Inch of Water. What's It Worth?*; <https://oceanservice.noaa.gov/economy/inch-water/>

³ Id.

⁴ John Frittelli, *Harbor Dredging: Issues and Historical Funding*; Congressional Research Service, Report IN11133, November 6, 2019.

⁵ Government Accountability Office, *Army Corps of Engineers: Action Needed to Ensure the Quality of Maintenance Dredging Contract Data*, September 2015