

Laws and Executive Orders governing the implementation of the Savannah Harbor Deepening Project.

A. Laws

1. Water Resources Development Act of 1999. Requires that the project may not proceed until and unless:

a. The Secretary of the Army reviews and approves an environmental impact statement that includes:

- 1.) an incremental analysis of channel depths from 42 to 48 feet;
- 2.) a selected plan for navigation and associated mitigation.

b. The selected plan and mitigation are approved by the Secretary of the Army, the Secretary of the Interior, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency.

c. There is a report and recommendation from the Chief of Engineers. That report was issued (date) and provides an additional condition that a revised and updated study document and Tier II Environmental Impact Statement must be prepared and must meet all the standard requirements of a Corps of Engineers study.

2. The Water Resources Planning Act. This requires all water resource development projects to undergo a rigorous analysis of economic, environmental, and social impacts. The process is specified through Executive Order establishing the Economic and Environmental Principles for Water and Related Land Resources Implementation Studies and the Economic and Environmental Guidelines for Water and Related Land Resources Implementation Studies. Taken together, these two documents are called the “Principles and Guidelines.”

3. The National Environmental Policy Act. Requires an Environmental Impact Statement with full public input and public review. Section 102(2)(c) of the Act and regulations of the President’s Council on Environmental Quality (CEQ) provide that if any Federal agency believes the project might cause unsatisfactory impacts, the decision is referred to the CEQ for further evaluation and potential decision by the President.

4. The Clean Water Act.

a. Section 401 provides that a state may veto the project if it would result in adverse effects on state water quality standards. In this case, both Georgia and South Carolina water quality agencies would have such an authority.

b. Section 404 provides that the project must comply with substantive environmental criteria, known as the 404(b)(1) Guidelines, established by the U.S. Environmental Protection Agency.

c. Section 404(c) provides the Environmental Protection Agency with a veto if it believes there are unacceptable adverse impacts on;

- 1.) municipal water supplies,
- 2.) shellfish beds and fisheries areas,
- 3.) wildlife, or
- 4.) recreational areas.

5. The Endangered Species Act. This act requires consultation with federal agencies having responsibility for endangered species to ensure that endangered species or their habitat are not jeopardized by the project. A project may not proceed in contravention of the Endangered Species Act.
6. Ocean Dumping Act. This act prohibits disposal at sea of any substance not in compliance with environmental criteria developed by the Administrator of the Environmental Protection Agency.
7. The Clean Air Act. Section 309 requires the Administrator of the Environmental Protection Agency to review all federal environmental impact statements and make a determination of whether the environmental impacts are acceptable. If they are not, in the judgment of the Administrator, the action is referred to the CEQ for further review and determination.
8. The Coastal Zone Management Act. Provides a virtual veto authority to a state with an approved Coastal Zone Management Plan if the proposed project is not consistent with the state's Coastal Zone Management Plan. Both Georgia and South Carolina have approved Coastal Zone Management Plans.
9. The National Historic Preservation Act. This requires evaluation of potential impacts on historic and archeological resources and a specific plan to avoid or mitigate potential impacts through a process administered by the National Council on Historic Preservation.
10. The National Wildlife Refuge Improvement Act. Provides for a veto by the Secretary of the Interior of any proposal requiring refuge land if the proposal is not consistent with the uses for which the refuge was established.
11. The Fish and Wildlife Coordination Act (FWCA). The FWCA requires federal agencies to coordinate with the federal and state fish and game agencies and to consider fully their views and recommendations in decision-making.
12. Magnuson-Stevenson Fishery Conservation and Management Act. Requires coordination with the National Marine Fisheries Service to ensure no adverse effect on essential fish habitat.

B. Executive Orders. (EO.)

13. EO 11514. Protection and Enhancement of Environmental Quality. (1970)
14. EO 11593. Protection and Enhancement of the Cultural Environment. (1971)
15. EO 11988. Floodplain Management. (1977)
16. EO 11990. Protection of Wetlands.
17. EO 12088. Federal Compliance with Pollution Control Standards. (1978)

18. EO 12322. Water Resources Projects. (1981)

19. EO 12376. Intergovernmental Review of Federal programs. (1982)