CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

July 28, 2015

S. 280
Federal Permitting Improvement Act of 2015

As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 6, 2015

SUMMARY

S. 280 would establish the Federal Permitting Improvement Council to monitor and coordinate the schedules and activities of federal agencies involved in the review, approval, permitting, or planning of certain federal or nonfederal infrastructure construction projects.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 280 would cost $125 million over the 2016-2020 period, primarily for the staffing and activities of the new council. Because the bill could affect direct spending, pay-as-you-go procedures apply. However, CBO estimates that any changes in direct spending would be insignificant. Enacting the bill would not affect revenues.

S. 280 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on sponsors of large construction projects that require authorization or environmental review by a federal agency. The bill would require those sponsors to notify the council and the facilitating federal agency when initiating a proposed project. The bill also would authorize federal agencies to charge project sponsors fees to cover some of the costs of administering federal permits and project reviews. To the extent that federal agencies would collect those fees, the bill would impose a mandate on public and private project sponsors. Based on information from the Office of Management and Budget (OMB) and potential project sponsors, CBO estimates that the cost to comply with the mandates would fall below the annual thresholds for intergovernmental and private-sector mandates established in UMRA ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of S. 280 is shown in the following table. The costs of this legislation would fall primarily within budget function 800 (general government).

	By Fiscal Year, in Millions of Dollars					
	2016	2017	2018	2019	2020	2016-2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	20	25	30	30	30	135
Estimated Outlays	15	20	30	30	30	125

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 280 will be enacted late in fiscal year 2015 and that spending will follow historical patterns for similar activities.

Changes in Spending Subject to Appropriation

S. 280 would establish a council to coordinate the issuance of federal environmental reviews, licenses, permits, and other administrative decisions needed to implement certain infrastructure projects. The council would expand on Executive Order 13604*, Improving Performance of Federal Permitting and Review of Infrastructure Projects* (issued in 2012), with an aim to streamline the federal approval process for certain construction projects involving expenditures of more than $200 million.

The Federal Permitting Improvement Council would consist of representatives from 13 participating departments and agencies. The council would have an Executive Director appointed by the President, who would serve as chair of the council. The primary responsibilities of the council would be to oversee and coordinate the completion of federal reviews and the administrative decision-making process required for certain infrastructure projects to proceed. The council would maintain an online database to track the progress of the projects, designate a lead federal agency for each project, set review schedules for agencies to perform their work, and issue recommendations on best practices for such work.

Information from OMB indicates that the council would coordinate the federal review of 200 to 300 projects each year. That level of effort would be considerably larger than the 28 active projects and 33 completed projects listed on the current Permitting Dashboard of

Federal Infrastructure Projects (http://www.permits.performance.gov/), which was established through a Presidential Memorandum to coordinate the federal permitting process. If the council coordinated the work of fewer projects each year, its annual costs would be lower.

Under the bill the council would become involved with construction projects involving expenditures greater than $200 million, including energy production and transmission; surface, air, and water transportation; or other types as determined by the council. The council would be authorized to work with projects of a size and complexity that would be likely to benefit from its enhanced oversight and coordination. Under the bill, projects requiring an environmental review by the Secretary of Transportation would be exempt from the council's work, as would water resource projects managed by the U.S. Corps of Engineers.

Based on information about the scope of the council's involvement, CBO estimates that when fully implemented the council would spend about $30 million annually. The council's employees would work from a headquarters office and satellite offices across the country. The council would have about 70 employees. Most of the council's employees would be assigned to work in those agencies with the largest administrative workloads related to the review of infrastructure projects, others would probably be assigned to travel to the sites of such infrastructure projects, and some employees would help the council to identify best administrative review practices and track agencies' schedules and progress.

Changes in Direct Spending

Section 10 would authorize agencies working with the council to collect fees from sponsors of infrastructure projects to offset up to 20 percent of the reasonable costs involved in conducting environmental reviews and completing other administrative decisions related to those projects. Any fees collected would be deposited into the proposed Environmental Review and Permitting Improvement Fund and would be available for use by the council and the relevant agencies without further appropriation. Collecting and spending such fees would have no net budgetary effect.

CBO expects that the authority to collect and spend fees provided in S. 280 would not significantly reduce the cost—which is subject to appropriation—of implementing the legislation. Some of the projects coordinated by the council would probably be federally sponsored projects, and collecting fees from one federal agency that would be spent by another would not reduce costs. Further, many federal agencies already have broad authorities to charge fees from the public when they are providing specific identifiable services or goods. It is unclear whether or how S. 280 would augment that authority. Finally, some federal agencies, notably the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission, collect fees from the industries that they regulate to offset their annual budgets. In those situations, the agencies could not charge additional fees under S. 280, but any additional funds appropriated for them to complete work under S. 280 would be offset by fees.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that any net change in direct spending under S. 280 would not be significant over the 2016-2025 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 280 would impose intergovernmental and private-sector mandates, as defined in UMRA, on sponsors of large construction projects that require authorization or environmental review by a federal agency. Large projects are those expected to exceed $200 million in total capital investment. The bill would require project sponsors seeking a federal permit to submit a notice to the council and to a lead federal agency when initiating a proposed project. The notice would have to include a statement of the project's purpose, information about its location, technical parameters, and costs, and a listing of federal authorizations or reviews that the sponsor anticipates will be necessary. The bill also would authorize federal agencies to charge project sponsors fees to cover some of the costs of administering federal permits and reviews. To the extent that federal agencies would collect those fees, the duty to pay those fees would be a mandate on public and private project sponsors. Based on information from OMB about the projected number of covered projects, the cost to review those projects, and feedback from potential project sponsors about the cost of providing data, CBO estimates that the aggregate costs to comply with the mandates would fall below the annual thresholds for intergovernmental and private-sector mandates established in UMRA ($77 million and $154 million in 2015, respectively, adjusted annually for inflation).

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