



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 1, 2014

H.R. 5078
Waters of the United States
Regulatory Overreach Protection Act of 2014

*As ordered reported by the House Committee on Transportation and Infrastructure
on July 16, 2014*

H.R. 5078 would prohibit the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) from implementing or enforcing certain proposed regulations regarding the use of the nation's waters and wetlands. The legislation would affect direct spending because it would reduce fees collected by the Corps for issuing permits under the Clean Water Act (CWA). However, CBO estimates that the change in those fees would be negligible. Because the legislation would affect direct spending, pay-as-you-go procedures apply. Enacting H.R. 5078 would not affect revenues. In addition, CBO estimates that implementing H.R. 5078 would have no significant effect on discretionary spending by EPA or the Corps.

Under the CWA, EPA and the Corps, along with the states, serve as co-regulators of the nation's waters. H.R. 5078 would prohibit the agencies from developing, finalizing, adopting, implementing, or enforcing the following:

- A proposed rule published in the *Federal Register* on April 21, 2014, that defines the scope of waters protected by the CWA;
- Draft Guidance Regarding Identification of Waters Protected by the Clean Water Act, submitted to the Office of Management and Budget on February 21, 2012, that clarifies how EPA and the Corps should identify U.S. waters protected by the CWA and implement two Supreme Court decisions on this issue; and
- An interpretive rule published in the *Federal Register* on April 21, 2014, to clarify the types of discharges of dredged or fill material associated with certain agricultural conservation practices that can be exempted from section 404 permits.

Finally, enacting this legislation would require EPA and the Corps to jointly consult with state regulatory officials to develop recommendations for an alternative regulatory proposal instead of the proposed rules and draft guidance; such recommendations would be provided to the Congress in a final report.

The regulatory changes proposed under current law would expand the area covered by federal regulations and the number of permits issued by the Corps under the CWA. The legislation would probably prevent, reduce, or delay such an expansion of federally regulated waters. However, because the amount of permit fees collected by the Corps is nominal, CBO estimates enacting H.R. 5078 would have an insignificant effect on direct spending over the 2015-2024 period.

As with similar legislative proposals directing EPA to prepare alternatives to proposed rules, CBO estimates that enacting this legislation would have no significant net impact on federal spending. Under the bill, we expect that EPA resources that would have been used to develop and implement the currently proposed rules and draft guidance would be used to develop an alternative regulatory proposal and a report to the Congress.

H.R. 5078 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, and any costs incurred by state, local, or tribal governments would result from participation in a voluntary federal program.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.