



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 5, 2014

H.R. 4854 **Regulatory Certainty Act of 2014**

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

Section 404 of the Clean Water Act (CWA) established a program to regulate the discharge of dredged or fill material (for example, rock, sand, soil, clay, plastics, construction debris, wood chips, or waste from mining or other excavation activities) into the nation's waters and wetlands. Proposed activities that could result in such discharges are regulated through a permit and review process wherein the U.S. Army Corps of Engineers (Corps) is responsible for making permitting decisions. The Environmental Protection Agency (EPA), under section 404(c) of the CWA, has the authority to restrict, prohibit, deny, or withdraw areas specified in permits before or after the permits are issued by the Corps.

H.R. 4854 would amend the CWA to restrict the time during which EPA may modify those permits. Specifically, H.R. 4854 would require the Corps to issue a notice to EPA that they have completed all procedures for processing an application for a permit; EPA would then have 30 days to revoke or modify the permit.

Under current law, EPA seldom modifies or revokes permits issued by the Corps—since 1972 EPA has used this authority 13 times. Based on information from EPA, CBO expects that a shortened review period as proposed by this legislation would probably not significantly reduce EPA's expenses to review permits. Under the bill, EPA would retain its authorities under section 404(c) of the CWA during the 30-day period following processing of a permit application by the Corps. CBO expects that, for projects posing the most concern for EPA, it is likely that EPA would incur permit review costs whether or not H.R. 4854 is enacted.

Pay-as-you-go procedures do not apply to H.R. 4854 because enacting the bill would not affect direct spending or revenues.

H.R. 4854 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

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