



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

November 16, 2010

H.R. 2868 **Continuing Chemical Facilities Antiterrorism Security Act of 2010**

As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 28, 2010, with a subsequent amendment provided to CBO on September 20, 2010

SUMMARY

H.R. 2868 would extend through fiscal year 2013 the Department of Homeland Security's (DHS's) authority to regulate security at chemical facilities that present a high level of security risk. In addition, the act would establish programs to provide technical assistance to such facilities on methods to reduce the risk of or consequences from acts of terrorism, and security training for facilities personnel and first responders.

CBO estimates that implementing this legislation would cost \$414 million over the 2011-2015 period, assuming appropriation of the necessary amounts. Enacting H.R. 2868 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2868 would extend intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on owners and operators of public and private facilities where certain chemicals are present. Based on information from DHS and industry sources, CBO estimates that the aggregate costs of complying with the mandates would be small and would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million, respectively, in 2010, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2868 is shown in the following table. The cost of this legislation falls within budget functions 050 (national defense) and 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars					2011- 2015
	2011	2012	2013	2014	2015	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Chemical Facilities Antiterrorism Security Program						
Estimated Authorization Level	84	86	88	0	0	258
Estimated Outlays	29	59	82	54	24	248
FEMA Chemical Security Programs						
Estimated Authorization Level	18	35	36	37	38	164
Estimated Outlays	11	28	36	37	38	150
Voluntary Technical Assistance Program						
Authorization Level	5	5	5	0	0	15
Estimated Outlays	2	4	5	3	1	15
Chemical Facility Advisory Board						
Estimated Authorization Level	*	*	*	*	*	1
Estimated Outlays	*	*	*	*	*	1
Total Changes						
Estimated Authorization Level	107	126	129	37	38	438
Estimated Outlays	42	91	123	94	63	414

Notes: Components do not sum to totals because of rounding.

FEMA = Federal Emergency Management Agency; * = less than \$500,000.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2868 will be enacted in calendar year 2010, that the estimated and specified amounts will be appropriated each year, and that outlays will follow historical spending patterns for existing or similar programs.

Chemical Facilities Antiterrorism Security Program

The act would extend for three years the authority for DHS to regulate security at chemical facilities in the United States that present a high level of security risk. Under the current program, DHS reviews the security plans of high-risk facilities and conducts on-site inspections to evaluate compliance with site-specific security plans and the Chemical Facility Antiterrorism Standards (CFATS). Not including personnel compensation, DHS

received approximately \$56 million in fiscal year 2010 to conduct such activities. In addition, CBO estimates that DHS received \$27 million in that same year to pay for salaries and benefits of the DHS employees associated with the CFATS program. Based on current personnel levels and expenditures, CBO estimates that continuing this effort would require the employment of approximately 200 personnel within DHS's National Protection and Programs Directorate, and would cost about \$250 million over the 2011-2015 period.

FEMA Chemical Security Programs

H.R. 2868 contains provisions that would direct the Federal Emergency Management Agency (FEMA) to provide voluntary training and exercises for high-risk chemical facilities to prevent, prepare for, respond to, and recover from natural and man-made disasters and other emergencies. Training would target officials and emergency responders from all levels of government and the private sector, as well as individuals located in neighborhoods adjacent to such facilities. Based on current and historical expenditures of similar preparedness programs—including FEMA's Radiological Emergency Preparedness Program—and assuming lower costs in 2011 for enactment part way through the fiscal year, CBO estimates that those provisions would cost \$150 million over the 2011-2015 period.

Voluntary Technical Assistance Program

H.R. 2868 would establish a technical assistance program through which DHS would provide assistance and recommendations to chemical facilities to enable such facilities to reduce the risk of and consequences from acts of terrorism. As part of the program, DHS would be required to develop a repository of information on effective practices for implementing CFATS. The act would authorize the appropriation of \$5 million annually through 2013 to provide technical assistance to facilities that request aid under the program. Based on the authorized amounts, CBO estimates that implementing this provision would cost \$15 million over the 2011-2015 period.

Chemical Facility Advisory Board

The act would require that the Secretary of DHS establish a Chemical Facility Advisory Board. The board would consist of nine members, seven of whom would represent chemical facilities covered by the CFATS and two of whom would be experts on topics related to the security of chemical facilities. CBO estimates, based on the costs associated with other DHS advisory bodies, that implementing this provision would cost \$1 million over the 2011-2015 period.

PAY-AS-YOU-GO CONSIDERATIONS: None.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2868 would extend intergovernmental and private-sector mandates, as defined in UMRA, on owners and operators of public and private facilities where certain chemicals are present. Based on information from DHS and industry sources, CBO estimates that the aggregate costs of complying with the mandates would be small and would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million, respectively, in 2010, adjusted annually for inflation).

The act would extend, for three years, mandates contained in CFATS, which are set to expire in December 2010. Those mandates require owners and operators of public and private facilities where certain chemicals are present to assess the vulnerability of their facilities to a terrorist incident and to prepare and implement security plans. The act also would extend mandates that require owners and operators of such facilities to maintain records, periodically submit reviews of the adequacy of vulnerability assessments or security plans, and allow DHS access to their property for inspections and verifications. In addition, owners and operators would have to continue to conduct background checks on employees who have access to restricted areas, and provide training to employees. Because facilities must currently comply with the existing CFATS regulations, CBO estimates that the cost of continuing to comply with those regulations would be small relative to the annual thresholds established in UMRA.

PREVIOUS CBO ESTIMATES

On October 23, 2009, CBO transmitted a cost estimate for H.R. 2868 as ordered reported by the House Committee on Energy and Commerce on October 22, 2009. In addition, on July 9, 2009, CBO transmitted a cost estimate for H.R. 2868 as ordered reported by the House Committee on Homeland Security on June 23, 2009. Both of those versions of the legislation would permanently authorize and expand the authority of DHS to regulate security at chemical facilities and would authorize the appropriation of \$900 million over the 2011-2013 period for such purpose, a significant increase over current spending levels.

The Senate version of the legislation does not provide a specific authorization of appropriations and would extend the existing authority for DHS to regulate chemical facilities until the end of fiscal year 2013. The estimated costs for this version of the legislation reflect its more limited scope.

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