



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 5, 1999

H.R. 391 **Small Business Paperwork Reduction Act Amendments of 1999**

*As ordered reported by the House Committee on Government Reform
on February 3, 1999*

SUMMARY

H.R. 391 generally would seek to provide relief to small businesses by: (1) waiving civil fines and penalties for first-time violations of paperwork requirements, (2) directing the Office of Management and Budget to publish annually a list of applicable paperwork requirements, (3) requiring that agencies provide a single point of contact, and (4) establishing a multi-agency task force to study the feasibility of streamlining requirements for collecting and reporting information to the federal government.

CBO estimates that enacting H.R. 391 would result in a net loss of governmental receipts of about \$4 million a year, beginning in fiscal year 2000. That amount includes an estimated annual loss of civil monetary penalties (CMPs) of about \$5 million, net of increased income and payroll taxes. (We estimate that any loss of receipts in fiscal year 1999 would total less than \$500,000.) Because the bill would affect receipts, pay-as-you-go procedures would apply. Agencies would also incur additional annual costs to publish a list of paperwork requirements and to participate in the multi-agency task force, but CBO expects that such costs would not be significant.

H.R. 391 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that complying with the provisions of the bill could cause states that are administering certain federal enforcement programs to forgo revenues of less than \$2 million a year.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

By waiving civil fines and penalties for first-time violations of paperwork requirements by small businesses, H.R. 391 would affect the collection of CMPs by federal regulatory

agencies. CBO estimates that federal receipts would decline by about \$4 million a year beginning in 2000..

The bill would prohibit federal agencies from assessing CMPs for first-time paperwork violations, except for cases where the agency determines that the violation has caused serious harm or presents an imminent and substantial danger to the public health or safety, or where the violation is not corrected within six months of notification. The one-time relief also would not apply to violations involving the collection of any tax, debt, revenue, or receipt. In addition, the bill would allow an agency to forgo assessing a firm for violations that it considers to present an imminent and substantial danger to the public health or safety. If the agency elects not to waive the fine or penalty, the bill would require that it notify the Congress of the decision within 60 days.

Agencies annually collect approximately \$300 million in non-tax CMPs—excluding those collected by the Internal Revenue Service. Such fines are recorded as governmental receipts. The vast majority of such collections, however, are for non-paperwork violations. Paperwork violations generally involve the failure to record and report information required by federal regulatory agencies to assist in enforcing health, safety, and environmental laws. Additionally, several federal statutes, including the Small Business Regulatory Enforcement Fairness Act of 1996, and Administration policy already require that agencies provide relief to small businesses from first-time fines for paperwork violations. Among other things, agencies are required to consider a firm's size, its compliance history, whether it benefited economically from the violation, and its efforts to correct the violation in determining the amount of any fine or penalty.

H.R. 391 would broaden this relief so as to prevent agencies from imposing any fine for the vast majority of first-time offenses. Unfortunately, information from the agencies we contacted, including the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and the Departments of Justice and Transportation, indicates that agencies do not track the assessment or collection of CMPs by whether a penalized firm is a small business, a first-time offender, or in most cases, even whether the fine is for a paperwork violation. Consequently, the amount of collections that would be forgone under H.R. 391 is very uncertain.

Based on limited information provided by OSHA, including the amount of fines assessed and collected for certain paperwork violations in 1997, the most recent year for which data are available, CBO estimates that annual collections by that agency would decrease by between \$1.5 million and \$2 million. OSHA and EPA each account for close to one-quarter of all non-tax CMPs. Thus, we estimate that EPA would forgo a similar amount in collections of CMPs. For other agencies, which account for roughly one-half of the remaining non-tax

CMPs, but which appear to affect small businesses to a lesser degree, we estimate the government would forgo another \$1 million to \$2 million annually. Thus, in total, CBO estimates that enacting H.R. 391 would result in an annual loss of governmental receipts from CMPs of around \$5 million. After adjusting for the income and payroll tax offset, CBO estimates a reduction in net governmental receipts of \$4 million, beginning in fiscal year 2000. Assuming the bill is enacted by this summer, we estimate that the net loss in governmental receipts for fiscal year 1999 would be less than \$500,000.

The bill also would increase annual discretionary costs for agencies to publish a list of paperwork requirements and to participate in the multi-agency task force, but CBO does not expect such increases to be significant.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By Fiscal Year, in Millions of Dollars											
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	
Changes in outlays												
Changes in receipts	0	-4	-4	-4	-4	-4	-4	-4	-5	-5	-5	

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 391 contains no intergovernmental mandates as defined in UMRA. However, states that have taken over the enforcement of federal programs, such as occupational safety and health, and safe drinking water, would be limited in their ability to enforce first-time paperwork violations. Because states have a choice whether to administer these programs and are not compelled to do so, changes in law governing the imposition of fines for paperwork violations would not constitute a mandate. States that are enforcing federal regulations under state programs could be expected to forgo penalties of less than \$2 million.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 391 would impose no new private-sector mandates as defined in UMRA.

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