



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 5, 2014

S. 1961 **Chemical Safety and Drinking Water Protection Act of 2014**

*As ordered reported by the Senate Committee on Environment and Public Works
on April 3, 2014*

SUMMARY

S. 1961 would amend the Safe Drinking Water Act (SDWA) to require either the Environmental Protection Agency (EPA) or those states with primary enforcement authority for public water systems to carry out a program to protect surface water from contamination by chemical storage tanks.¹ Under this legislation, however, states would have the option to not establish the proposed program; if states opt out of running the program, then authority to implement it would revert to EPA.

Based on information from EPA, various state agencies, and experts in the storage tank industry, CBO estimates that implementing this legislation would cost \$114 million over the 2015-2109 period, subject to the availability of appropriated funds. That estimate assumes that all but about 10 state, tribal, or territorial governments would probably implement their own programs to oversee chemical storage tanks. EPA would implement the program with federal funds for state, tribal, or territorial governments that opt not to do so. Enacting S. 1961 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1961 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on owners and operators of some chemical storage tanks. Those owners and operators would have to meet requirements established by EPA and states, including standards for construction, spill prevention, and emergency response. Owners and operators also would have to comply with requirements for periodic inspections. The cost of the mandates would ultimately depend on the minimum requirements developed by EPA and states, but they would affect a large number of entities. Only a small number of the chemical storage tanks owned by public entities would be affected by the program's requirements; therefore, CBO estimates that the cost of mandates for public entities would fall below the annual threshold established in UMRA for intergovernmental mandates (\$76 million in 2014, adjusted annually for inflation).

1. Under the SDWA, tribal governments and territories are treated as states.

However, a large number of private entities would be affected by the program. Given the potential costs of compliance for those entities, CBO estimates that the aggregate cost of the private-sector mandates would probably exceed the annual threshold established in UMRA (\$152 million in 2014, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of this legislation is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars					2015-2019
	2015	2016	2017	2018	2019	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	30	30	20	20	20	120
Estimated Outlays	20	29	24	21	20	114

BASIS OF ESTIMATE

CBO assumes that S. 1961 will be enacted by the start of 2015 and that the amounts estimated to be necessary will be appropriated for each fiscal year beginning that year. Estimated outlays are based on historical spending patterns for similar EPA programs.

This legislation would require that the proposed new state programs to protect drinking water from contamination by chemical storage tanks meet minimum requirements including: conducting regular inspections of covered chemical storage tanks; establishing emergency response and communication plans; and, maintaining an inventory of tanks. S. 1961 broadly defines covered chemical storage tanks as onshore, fixed, above-ground storage containers from which a release of a chemical could pose a risk of harm to a public water system. Based on information from state regulators of storage tanks, EPA, and chemical industry experts, CBO estimates that this definition of chemical storage tanks would probably extend to tens of thousands of storage tanks across the country.

CBO estimates that EPA would incur significant costs to operate this program if states opt out of running the program themselves. Whether or not a state elects to run their own program depends on a couple of factors:

- First, about 20 states already have similar inspection programs of tanks and water systems in place and thus, running the proposed program would enable certain states to continue their own administration of water protection and oversight of water systems by expanding current inspection programs. States generally prefer to seek delegation of the federal environmental laws, rather than have EPA administer such programs in the state. For example, all states except Wyoming, the District of Columbia, and most tribal governments have primary enforcement authority for the federal government's Public Water System Supervision Program. In addition, almost all states have been delegated permitting and other authorities under the federal Clean Water Act, and all states administer the federal Clean Air Act Permitting Program.
- Second, the states would also have to consider the cost to run their own enforcement program for chemical storage tanks because S. 1961 would not authorize federal grants to states for this purpose. States could recoup the cost of operating the new program by imposing fees on owners and operators of covered chemical tanks, but some states may require changes to state laws to authorize such fees.

Based on information from some states currently running similar enforcement programs, CBO expects that most states (and some tribal governments and territories) would probably establish their own programs under the bill. However, CBO expects that about 10 states would not establish their own programs and would let EPA run programs in those states instead.

We estimate that it would cost EPA about \$3 million initially per state to run a program protecting surface water from contamination by chemical storage tanks. After regulations have been developed and initial training for inspectors completed, CBO expects that annual costs would decrease to about \$2 million per state.

Overall, we estimate that implementing this legislation would cost \$114 million over the 2015-2019 period for EPA to operate the program for about 10 states, subject to appropriation of the necessary amounts. Such costs could be higher or lower depending on how many states opt out of operating their own programs, and those decisions could change after the proposed program starts.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 1961 would impose intergovernmental and private-sector mandates, as defined in UMRA, on owners and operators of some chemical storage tanks. The bill would require owners and operators of covered chemical storage tanks to meet minimum requirements to be established under a program for protecting public water systems from chemical releases. The program's requirements would include standards for tank construction, leak detection, spill prevention, lifecycle maintenance, and proof of financial responsibility. The program also would require owners and operators to develop emergency response plans and comply with requirements for periodic inspections. The bill would direct EPA and states with primary enforcement authority for public water systems to consider excluding from the program tanks that are already regulated by state or federal standards and tanks that do not pose a risk to public water systems. However, CBO expects that at least tens of thousands of tanks would be covered by the program, most owned or operated by private entities. Based on information from states, CBO estimates that a small proportion of those tanks are owned or operated by public entities such as local governments, public universities, or hospitals.

The cost of the mandates would ultimately depend on the minimum requirements developed by EPA and states administering the program. Existing requirements in federal or state law as well as voluntary consensus standards could be incorporated into the program. Consequently, a number of tanks might already comply with some requirements that program would establish. Based on information from states, CBO estimates that only a small number of the chemical storage tanks owned by public entities would need to take additional action to comply with the program's requirements. Consequently, CBO estimates that the aggregate cost for those entities to comply with the intergovernmental mandates would fall below the annual threshold established in UMRA (\$76 million in 2014, adjusted annually for inflation).

Based on information from industry sources, CBO estimates that the cost for private entities to comply with the mandates could amount to tens of thousands of dollars per tank, depending on the requirements set by EPA and states. Given the large number of private entities that would be affected by the program and the potential costs of compliance, the cost of the private-sector mandates would probably be substantial. Consequently, CBO estimates that the aggregate cost of the private-sector mandates would probably exceed the annual threshold established in UMRA (\$152 million in 2014, adjusted annually for inflation).

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