



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 1, 2012

### **S. 847**

#### **Safe Chemicals Act of 2011**

*As ordered reported by the Senate Committee on Environment and Public Works  
on July 25, 2012*

#### **SUMMARY**

S. 847 would modify the Toxic Substances Control Act (TSCA), the law that regulates the manufacture, importation, and processing of chemicals, with the aim of shifting the burden from the Environmental Protection Agency (EPA) to chemical manufacturers to prove that substances are safe before they enter the marketplace. This new responsibility for chemical manufacturers would be accomplished primarily by increasing the amount of information about chemical toxicity and usage that they would be required to submit to EPA. Enacting this legislation also would require EPA to undertake other activities that would encourage and support the development of safer alternatives to existing hazardous chemical substances.

CBO estimates that implementing this legislation would cost \$128 million over the next five years, assuming appropriation of the necessary amounts, as EPA would incur additional administrative costs to meet the new requirements imposed by S. 847.

Enacting S. 847 could affect direct spending and revenues because the bill would increase some existing civil and criminal penalties for violations of TSCA, establish some new civil and criminal penalties for violations related to that act, and authorize EPA to charge fees to chemical manufacturers. Therefore, pay-as-you-go procedures apply to S. 847. CBO estimates that any changes in revenues and direct spending would not be significant.

S. 847 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by regulating the manufacture, processing, use, and disposal of chemicals. Because the mandates on intergovernmental entities would depend on the scope of future regulations, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation). Because a large number of chemicals could be affected by the new requirements, CBO estimates that the aggregate cost of the private-sector mandates would probably exceed the annual threshold (\$146 million in 2012, adjusted annually for inflation.)

CBO has not reviewed provisions in section 26 of S. 847 that would implement international agreements for mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that those provisions fall within that exclusion.

## **MAJOR PROVISIONS**

The bill's major provisions would:

- Require EPA, as part of the chemical approval process, to establish requirements for what data firms must submit so that EPA can assess risk;
- Require EPA to prioritize all chemicals already in use so that their safety and the methods used to manage their risks can be evaluated;
- Require EPA to establish a health-based standard for chemical use and require that chemical manufacturers produce scientific data demonstrating adherence to that standard;
- Authorize EPA, in some cases, to issue administrative orders instead of rules, exempt certain EPA decisions from judicial review, and increase public access to EPA's decisions and information about chemicals;
- Allow EPA to implement three international agreements pertaining to organic pollutants and hazardous chemicals; and
- Require EPA to establish a program to create market incentives for the development of safer alternatives to chemicals, establish a children's environmental health research program, and conduct a study to determine the presence of certain chemicals in pregnant women and infants.

## **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of S. 847 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

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	By Fiscal Year, in Millions of Dollars					2013-
	2013	2014	2015	2016	2017	2017

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**CHANGES IN SPENDING SUBJECT TO APPROPRIATION**

Estimated Authorization Level	30	30	30	30	30	150
Estimated Outlays	12	26	30	30	30	128

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Note: Implementing S. 847 also could increase revenue collections and related direct spending from fines and penalties, but CBO estimates that any collections over the 2013-2022 period would not be significant.

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## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 847 will be enacted near the end of 2012 and that the necessary amounts will be appropriated each year.

### **Spending Subject to Appropriation**

While some EPA activities currently performed under TSCA would be replaced by new requirements under S. 847, CBO estimates that implementing this legislation would increase EPA's workload for regulating chemical safety by about 30 percent each year. That estimate is based on historical information about how other large regulatory programs have been implemented by EPA (such as acid rain) and on other information provided by the agency. According to EPA, the agency currently requires, on average, an appropriation of about \$105 million annually to implement and enforce TSCA. That funding supports about 360 employees and includes about \$5 million for grants to states to enforce TSCA. Subject to appropriation of the necessary amounts, CBO estimates that EPA would require about \$30 million annually over the next five years to cover the costs of additional personnel, contractors, and other administrative activities associated with meeting the new requirements of this legislation.

Over the next two years, CBO expects that EPA would focus primarily on producing guidance documents and cost-benefit analyses and performing other administrative tasks related to the rulemaking process for new chemicals and substances already in use. EPA also would establish internal processes and information technology systems necessary to prioritize the analysis of tens of thousands of chemicals and to implement other related programs in subsequent years. According to the agency, such activities are routinely carried out by contractors; as a result, the majority of the estimated \$30 million annual funding needed over this period would cover contractor costs. By 2015, as more

implementation and enforcement of the new provisions of TSCA would begin, CBO estimates that EPA would shift funding to cover additional personnel.

### **Direct Spending and Revenues**

Enacting S. 847 also could affect direct spending and revenues because this bill would increase some existing civil and criminal penalties as well as establish some new fines. Criminal penalties are recorded as revenues, then deposited in the Crime Victims Fund, and later spent; civil penalties are recorded as revenues. CBO estimates that any increase in criminal or civil penalties under the bill would not be significant.

Implementing this legislation also would authorize EPA to charge fees to chemical manufacturers who are required to submit data under the bill. The legislation indicates that such fees could be used to defray the cost of administering the changes proposed by this bill. Any additional fees collected under this provision would be recorded as an increase in revenues in the budget. However, because those fees could not be charged until sufficient amounts have been appropriated to EPA for the TSCA regulatory program, no additional revenues can be attributed directly to enacting S. 847.

### **PAY-AS-YOU-GO CONSIDERATIONS**

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that any increase in revenues and direct spending resulting from changes in criminal or civil penalties would not be significant over the 2013-2022 period.

### **INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT**

The bill would authorize EPA to develop new regulations for the use and disposal of chemicals and the inspection of facilities where chemicals are stored. Such regulations would constitute intergovernmental mandates, as defined in UMRA. The bill would impose an additional intergovernmental mandate by preempting state regulations that conflict with federal requirements. Because the scope of future regulations is unclear and the number of intergovernmental entities potentially affected by the requirements is unknown, CBO cannot determine whether the aggregate cost of the intergovernmental mandates would exceed the annual threshold established in UMRA (\$73 million in 2012, adjusted annually for inflation).

The bill would impose private-sector mandates on manufacturers and processors of chemicals by requiring them to submit additional data and comply with safety standards. Both new and existing chemicals currently sold in the United States would be subject to the

mandates in the bill. According to information from industry experts, manufacturers and processors of chemicals could incur costs of \$1 million or more per chemical to demonstrate compliance with safety standards. In addition to the requirements on manufacturers and processors, any regulations governing the use and disposal of chemicals and the inspection of facilities also would impose mandates on private entities. Because a large number of entities would likely be affected by the new requirements, CBO estimates that the aggregate cost of the private-sector mandates would probably exceed the annual threshold established in UMRA (\$146 million in 2012, adjusted annually for inflation.)

CBO has not reviewed legislative provisions in section 26 that would implement international agreements for mandates. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that those provisions fall within that exclusion.

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