



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

September 29, 2011

S. 473 **Continuing Chemical Facilities Antiterrorism** **Security Act of 2011**

*As ordered reported by the Senate Committee on Homeland Security
and Governmental Affairs on June 29, 2011*

SUMMARY

S. 473 would extend through fiscal year 2014 the Department of Homeland Security's (DHS's) authority to regulate security at certain chemical facilities in the United States. Under this authority, which is set to expire in October of 2011, DHS operates the Chemical Facility Anti-Terrorism Standards (CFATS) program. The bill also would establish a technical assistance program to assist chemical facilities in complying with CFATS. Lastly, the bill would direct the Federal Emergency Management Agency (FEMA) to establish a training program and conduct exercises aimed at testing the ability of first responders and other entities to prevent and respond to acts of terrorism and natural disaster at chemical facilities.

CBO estimates that implementing S. 473 would cost about \$330 million over the 2012-2016 period, assuming appropriation of the specified and estimated amounts.

S. 473 could result in the collection of additional civil penalties, which are recorded as revenues and deposited in the U.S. Treasury; therefore, pay-as-you-go procedures apply. However, CBO estimates that such collections would be minimal and the effect on revenues would be insignificant. Enacting the bill would not affect direct spending.

S. 473 would extend intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), on owners of public and private facilities where certain chemicals are present. Based on information from DHS and industry sources, CBO estimates that the aggregate cost of complying with the mandates would be small and fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$71 million and \$142 million, respectively, in 2011, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 473 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense) and 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars					2012- 2016
	2012	2013	2014	2015	2016	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Chemical Facility Antiterrorism Standards Program						
Estimated Authorization Level	91	92	94	0	0	277
Estimated Outlays	32	64	88	58	25	267
FEMA Chemical Security Programs						
Estimated Authorization Level	15	15	15	0	0	45
Estimated Outlays	9	15	15	6	0	45
Voluntary Technical Assistance Program						
Authorization Level	5	5	5	0	0	15
Estimated Outlays	2	4	5	3	1	15
Total Changes						
Estimated Authorization Level	111	112	114	0	0	337
Estimated Outlays	43	83	108	67	26	327

Note: FEMA = Federal Emergency Management Agency.

BASIS OF ESTIMATE

For the purposes of this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2012, that the necessary amounts will be appropriated each year, and that outlays will follow historical patterns for existing and similar programs.

Chemical Facility Antiterrorism Standards Program

Section 2 would extend for three years DHS's authority under CFATS to regulate security at certain chemical facilities in the United States. Through CFATS, DHS collects and reviews information from chemical facilities in the United States to determine which facilities present a security risk. Facilities determined to present a high level of security risk

are then required to develop a Site Security Plan (SSP). DHS in turn conducts inspections to validate the adequacy of facilities' SSPs and their compliance with them.

In 2011, DHS received approximately \$90 million in appropriations for activities related to CFATS, with approximately \$30 million for salaries and benefits of federal employees and about \$60 million for program expenses. Based on this information, and after accounting for inflation, CBO anticipates that the program would require appropriations of \$91 million in 2012 and a total of \$277 million over the 2012-2014 period. Assuming appropriation of those amounts, CBO estimates that implementing this provision would cost \$267 million over the 2012-2016 period.

FEMA Chemical Security Programs

S. 473 would establish training and exercise programs within FEMA to improve and evaluate the capabilities of public and private entities to prevent, prepare for, respond to, and recover from a natural or man-made disaster or other emergency at a chemical facility. Under the bill, participation in both programs would be voluntary and periodic exercises would be directed at the highest-risk facilities. Assuming about 10 exercises per year and based on historical expenditures for similar preparedness programs, CBO estimates that those provisions would cost \$45 million over the 2012-2016 period.

Voluntary Technical Assistance Program

S. 473 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 complying with CFATS. The bill would authorize the appropriation of \$5 million annually from 2012 to 2014. As a result, CBO estimates that implementing the program would cost \$15 million over the 2012-2016 period.

Chemical Facility Advisory Board

The bill would require that the Secretary of DHS establish a Chemical Facility Advisory Board. The board would consist of nine members, five of whom would be owners or operators of covered chemical facilities, two of whom would be employees of such facilities, and two of whom would be experts on topics related to the security of chemical facilities. The board, which would be authorized through fiscal year 2014, would advise the Secretary of DHS on the implementation of CFATS as well as the voluntary technical assistance program that would be established under S. 473. Based on the cost of other DHS advisory bodies, CBO estimates that implementing this provision would cost less than \$500,000 over the 2012-2016 period.

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. Enacting S. 473 could result in the collection of additional civil penalties, which are recorded as revenues and deposited in the U.S. Treasury. However, CBO estimates that such collections would be minimal and the effect on revenues would be insignificant. Enacting the bill would not affect direct spending.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 473 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. Requirements on those owners and operators to assess the vulnerability of their facilities and to prepare and implement security plans would be mandates. The bill also would extend mandates that require owners and operators of such facilities to maintain records, periodically submit reviews of the adequacy of the vulnerability assessments or facility 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. 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. (\$71 million and \$142 million, respectively, in 2011, adjusted annually for inflation).

PREVIOUS CBO ESTIMATES

On July 6, 2011, CBO transmitted a cost estimate for H.R. 901, the Chemical Facility Anti-Terrorism Standards Act of 2011, as ordered reported by the House Committee on Homeland Security on June 22, 2011. CBO determined that H.R. 901 would extend the same mandates as S. 473.

On June 15, 2011, CBO transmitted a cost estimate for H.R. 908, the Full Implementation of the Chemical Facility Anti-Terrorism Standards Act, as ordered reported by the House Committee on Energy and Commerce on May 26, 2011. CBO determined that H.R. 908 would extend the same mandates as S. 473.

CBO also determined that section 2(a) of S. 473 is similar to provisions of H.R. 901 and H.R. 908. The difference in estimated costs between the House and Senate provisions is primarily because of the difference in length of the authorizations.

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