CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 19, 2015

H.R. 8
North American Energy Security and Infrastructure Act of 2015

As ordered reported by the House Committee on Energy and Commerce on September 30, 2015

SUMMARY

H.R. 8 would amend current law and authorize activities—to be administered primarily by the Department of Energy (DOE)—to promote energy efficiency and enhance the reliability and security of energy-related infrastructure. The bill also would expand and extend federal agencies' authority to use certain types of long-term contracts to invest in energy conservation measures and related services and specify various energy-related goals and requirements for federal agencies.

CBO estimates that enacting H.R. 8 would increase direct spending by $414 million over the 2016-2025 period. In addition, CBO estimates that implementing the legislation would, on net, reduce spending subject to appropriation by $411 million over the 2016-2020 period, assuming appropriation actions consistent with the legislation. Enacting H.R. 8 could affect revenues, but CBO estimates that any such effects would total less than $500,000 in any year.

Because H.R. 8 would affect direct spending and revenues; pay-as-you-go procedures apply.

CBO estimates that enacting H.R. 8 would not increase net direct spending or on-budget deficits by more than $5 billion in any of the four consecutive 10-year periods beginning in 2026.

H.R. 8 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of complying with the intergovernmental mandates would fall below the annual threshold established in UMRA ($77 million in 2015, adjusted annually for inflation). CBO cannot determine whether the aggregate cost of the private-sector mandates would exceed the annual threshold established in UMRA ($154 million, adjusted annually for inflation).

CBO has not reviewed some provisions of sections 1102 and 1104 for mandates because section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for national security; CBO has determined that those provisions fall within that exclusion.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of this legislation are shown in the following table. The costs of this legislation primarily fall within budget function 270 (energy).

TABLE 1. SUMMARY OF THE BUDGETARY EFFECTS OF H.R. 8 [a]

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	46	46	46	46	46	46	46	46	46	46	230	460
Estimated Outlays	14	32	46	46	46	46	46	46	46	46	184	414
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
Estimated Authorization Level	33	14	8	5	0	-4	-8	-12	-16	-21	60	-1
Estimated Outlays	6	-204	-149	-49	-15	185	136	59	14	-12	-411	-29

a. The estimates presented in this table reflect CBO's view of how cash flows related to energy savings performance contracts (ESPCs) should be reflected in the federal budget. Since ESPCs were first implemented in 1998, however, the Administration has not recorded the full extent of federal obligations under ESPCs upfront when contracts were signed. Instead, the Administration records ongoing contract payments to vendors under ESPCs on a year-by-year basis as appropriations for such payments are provided. If the Administration was to continue following that practice for executing ESPCs under H.R. 8, agencies' total energy-related costs would be largely unchanged during the contract period, when savings from reduced energy costs would go toward making contractual payments to vendors. As a result, CBO estimates that there would be no significant reduction in appropriations from implementing H.R. 8 in the 10-year period covered by this estimate. If expected reductions in energy use continued beyond the contract period, budgetary savings would accrue to the federal government if annual appropriations for agencies' energy-related spending were reduced accordingly.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 8 will be enacted near the start of fiscal year 2016.

Changes in Direct Spending

Estimated increases in direct spending under H.R. 8 stem from provisions that would modify agencies' authority to enter into energy savings performance contracts (ESPCs), a specific type of long-term contract used to procure equipment and services to conserve energy in federal buildings. The bill also would specify a variety of energy-related goals and requirements for federal agencies, but CBO estimates such provisions would not significantly affect direct spending.

Expanded Authority to Use ESPCs. Under current law, a variety of statutory provisions and executive orders direct federal agencies to meet certain goals to reduce the amount of energy used, increase the consumption of electricity that is generated from renewable sources, reduce emissions of greenhouse gases, and ensure that federal facilities meet certain standards related to sustainable resource use. To support investments in energy-efficiency and renewable technologies necessary to achieve those goals, federal agencies sometimes use ESPCs—a specific type of long-term contract that enables a nonfederal vendor to finance energy-related investments on behalf of the government.

CBO generally considers that implementing ESPCs will affect both direct spending and spending subject to appropriation. The rationale for CBO's longstanding budgetary treatment of ESPCs and similar contracts, and differences between CBO's view and the Administration's, are discussed in depth in a recent CBO report on that topic.[1] In brief, upon entering into an ESPC, the government effectively commits to making payments to a vendor in future years before having appropriations to cover all of the resulting costs; in CBO's view, the authority to enter into such contractually binding agreements without appropriations is a form of direct spending. ESPCs permit agencies to pay vendors for energy conservation measures and related financing costs over time on the basis of anticipated and realized reductions in energy costs, which are generally paid from annual discretionary appropriations. Thus, proposals that affect agencies' use of such contracts also affect spending subject to appropriation.

1. See Congressional Budget Office, *Using ESPCs to Finance Federal Investments in Energy-Efficient Equipment*, (February 2015), https://www.cbo.gov/publication/49869.

H.R. 8 would modify federal agencies' authority to use ESPCs to finance necessary capital investments. Key changes would:

- Permit agencies to use, sell, or transfer energy incentives, rebates, or credits (such as renewable energy certificates) as a means of making payments to vendors under ESPCs;[2]

- Expand the definition of an "energy conservation measure" to include the acquisition of energy-consuming devices and support structures (such as appliances located within federal buildings); and,

- Require federal agencies to include, in estimating the value of energy savings attributable to an ESPC, any anticipated reduction in operation and maintenance expenses related to energy conservation measures financed under the contract.

CBO expects that those proposed changes to agencies' authority to use ESPCs would enable agencies to pursue new projects that are otherwise unlikely to be undertaken under current law. In particular, we expect that authorizing agencies to use incentives such as renewable energy certificates to finance contract payments would enable greater investments in renewable technologies. Under current law, agencies' authority to use such incentives to pay for ESPC costs is uncertain in light of a 2013 decision by a federal contract appeals board.[3] As a result of that decision and based on information from DOE, CBO expects that, under current law, federal agencies are unlikely to pursue ESPCs that involve renewable energy technologies as a significant component.

Thus, CBO anticipates that allowing agencies to use such incentives would lead them to make larger investments in renewable projects than would otherwise occur. CBO estimates that, under H.R. 8, agencies would use ESPCs to adopt additional energy conservation measures with an investment value of about $35 million annually. That estimate is based on historical information from DOE on the potential magnitude of renewable energy projects that are likely to be pursued through ESPCs if agencies were explicitly permitted to use incentives such as renewable energy certificates to fund contracts. The estimate represents a relatively modest incremental increase in anticipated spending for energy-related investments. By comparison, since 2003 overall spending by federal agencies for such investments has averaged nearly $1.5 billion annually, with roughly

2. Renewable energy certificates represent the right to the nonpower renewable and environmental attributes of electricity generated from renewable resources. Such certificates, and other similar incentives and rebates, can be sold separately from the underlying units of physical electricity. For purposes of complying with certain energy-related requirements, the purchase of a renewable energy certificate is equal to purchasing the renewable attributes of the underlying electricity without consuming or purchasing the energy itself.

3. Honeywell International Inc., Armed Services Board of Contract Appeals No. 57779 (August 7, 2013).

one-third of energy conservation measures—or about $500 million annually—acquired through ESPCs or similar long-term contracts.

It is possible that incremental commitments through ESPCs would be even greater under H.R. 8 to the extent that agencies that currently plan to undertake projects using appropriated funds for the upfront costs shift instead toward using such contracts, given the expanded flexibility under the bill. However, based on information from DOE about the multi-billion dollar pipeline of energy-related improvements that agencies intend to pursue under current law over the next several years, CBO does not expect that increased use of contracts to finance projects would reduce the need for future appropriations for energy-related investments. Rather, our estimate reflects the expectation that, under the bill, overall levels of investment would increase relative to current law.

Under H.R. 8, CBO estimates that increased direct spending for the upfront cost of contractual commitments to acquire additional energy conservation measures through ESPCs would total $46 million annually. CBO's estimate of direct spending reflects an amount equal to the annual cost of energy conservation measures as installed (about $35 million), plus the net present value of the portion of borrowing costs attributable to contract interest rates that would exceed U.S. Treasury interest rates (about $11 million). (Borrowing costs equivalent to the amount of Treasury interest that would be paid if projects were financed with appropriated funds are not included in our estimate because, for the enforcement of Congressional budget rules, changes in Treasury interest costs are not counted as a cost or savings related to any particular legislative provision.) CBO's estimate of spending reflects its judgment as to when equipment or services would be provided—typically over a three-year period for equipment.

In addition, CBO estimates that projects financed through ESPCs would, on net, reduce federal agencies' energy costs, which are typically paid for using annual discretionary appropriations. (See the subsequent discussion on changes in spending subject to appropriation for details on such effects.)

Energy-Related Goals and Requirements for Federal Agencies. As previously mentioned, existing statutory provisions and executive orders direct federal agencies to meet certain energy-related goals and requirements. According to DOE, federal agencies have identified a multi-billion dollar pipeline of additional energy-related improvements that they intend to pursue under current law over the next several years in order to comply with existing energy-related goals and requirements. Under current law, CBO expects that agencies will pursue some of those improvements through ESPCs and similar arrangements involving an increase in estimated direct spending.

H.R. 8 would extend statutory goals for federal agencies to reduce energy consumption, expand requirements for federal buildings to meet certain standards related to sustainable resource use, and broaden definitions of the types of energy that can be considered renewable for purposes of complying with an existing requirement related to federal agencies' use of renewable electricity. According to DOE, the goals and requirements specified by those provisions are largely consistent with existing statutory and administrative policy, and CBO expects that they would not significantly affect the timing or magnitude of federal spending on energy-related technologies.

Spending Subject to Appropriation

Assuming appropriation action consistent with the legislation, CBO estimates that implementing H.R. 8 would, on net, reduce spending subject to appropriation by $411 million over the 2016-2020 period (see Table 2). That estimate includes $74 million in increased costs for DOE and other agencies to pursue activities related to energy infrastructure and energy efficiency that would be more than offset by estimated reductions in spending subject to appropriation totaling $485 million. Those reductions include the effects of a provision that would establish an Energy Security and Infrastructure Modernization Fund with proceeds from the sale of oil in the Strategic Petroleum Reserve, estimated reductions in energy-related spending attributable to increased use of ESPCs under the bill, and forgone costs to comply with an existing requirement for federal agencies to reduce their use of fossil fuels.

In addition, several provisions—particularly those related to the security of the nation's electricity transmission grid and other aspects of the nation's energy infrastructure—would specify a variety of new procedural and analytical requirements for the Federal Energy Regulatory Commission (FERC), which regulates the interstate transmission of electricity, natural gas, and oil and plays a role in approving and licensing certain energy projects. Such provisions could affect FERC's workload; however, because FERC recovers 100 percent of its costs through user fees, any change in that agency's costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges, resulting in no net change in federal spending.

TABLE 2. CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 8

	By Fiscal Year, in Millions of Dollars					
	2016	2017	2018	2019	2020	2016-2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Energy-Related Infrastructure and Energy Efficiency						
Estimated Authorization Level	34	18	17	17	17	103
Estimated Outlays	7	14	17	18	18	74
Energy Security and Infrastructure Modernization Fund						
Estimated Authorization Level	0	0	0	0	0	0
Estimated Outlays	0	-214	-157	-55	-16	-442
Net Reductions in Energy and Energy-Related Costs Attributable to ESPCs						
Estimated Authorization Level	-1	-3	-6	-9	-12	-31
Estimated Outlays	-1	-3	-6	-9	-12	-31
Repeal of Requirement to Reduce Fossil Fuel Use						
Estimated Authorization Level	0	-1	-3	-3	-5	-12
Estimated Outlays	0	-1	-3	-3	-5	-12
Total Changes						
Estimated Authorization Level	33	14	8	5	0	60
Estimated Outlays	6	-204	-149	-49	-15	-411

Note: ESPCs = energy savings performance contracts.

Energy-Related Infrastructure and Energy Efficiency. H.R. 8 would authorize DOE and other agencies to pursue activities to modernize and improve the security of energy-related infrastructure and promote the development and use of energy-efficient technologies in buildings, appliances, and industrial processes. The bill also would direct DOE, in collaboration with the Department of State, to undertake a variety of analytical and diplomatic efforts related to energy security.

According to DOE, many of the requirements specified in H.R. 8 are consistent with ongoing efforts and likely to be achieved within existing levels of funding; as a result, CBO estimates that implementing such provisions would not significantly affect the agency's costs. Based on information from DOE, CBO estimates that fully funding those activities would require appropriations totaling $103 million over the 2016-2020 period (and $85 million in later years). That five-year total includes:

- $50 million in specified authorizations for incentive payments to certain producers of hydroelectricity;

- $25 million in estimated authorizations for a new program to identify and promote technologies to enhance the cybsersecurity of the nation’s bulk-power system;

- $15 million in specified authorizations for grants to utilities and local governments to demonstrate advanced and innovative technologies related to efficient use of energy and water; and

- $13 million in estimated authorizations for a variety of energy-related studies, reports, and other activities.

Assuming appropriation of the amounts authorized and estimated to be necessary, CBO estimates resulting outlays would total $74 million over the 2016-2020 period and $114 million in later years. That estimate is based on historical spending patterns for existing and similar activities carried out by DOE.

That estimate includes the costs for DOE to develop, in consultation with other federal agencies and owners and operators of critical electric infrastructure and military installations, a plan to establish a national storage system for spare large power transformers and other equipment that could be used to replace critically damaged components of the bulk-power system; however, our estimate does not include any costs that DOE might incur to subsequently implement such a plan because we have no basis for predicting what it might recommend. Based on information from DOE, CBO expects the agency would need about two years to collaborate and develop the proposed plan, which would assess the need for such a storage system and options for covering its costs, which CBO expects could cost up to a few hundred million dollars to establish. Any federal spending for such a system would be subject to appropriation, and could be offset by fees paid by users depending on the details of the plan.

Energy Security and Infrastructure Modernization Fund. Section 1201 would authorize the appropriation of $850 million over the 2017-2020 period for certain infrastructure projects and establish the terms and conditions under which those costs would be offset during that period by authorizing the sale of oil from the Strategic Petroleum Reserve (SPR) for that purpose. Any amounts appropriated or collected from the sale of oil would be deposited in a new Energy Security and Infrastructure Modernization Fund. Such oil sales would be in amounts specified in the bill and would be contingent on authority provided in future appropriation acts. Other provisions would direct DOE to deposit proceeds in the year the oil is sold and would preclude sales if the sale price would be lower than the average price paid to acquire the oil for the SPR or if the oil was needed to meet certain emergency conditions.

For this estimate, CBO assumes that future appropriation acts would appropriate the amounts authorized in the bill and authorize DOE to sell volumes of oil from the SPR as necessary to generate proceeds equivalent to those amounts. CBO also assumes that DOE would ensure that the net proceeds from the sales would equal or exceed the amounts required by those acts.[4] Because of differences in the timing of such collections and spending, CBO estimates that implementing the program would reduce discretionary spending by about $442 million over the 2016-2020 period, but increase it by the same amount after 2021 as projects are completed, resulting in no net cost over the 2016-2025 period.

Net Reductions in Energy and Energy-Related Costs Attributable to ESPCs. As previously discussed, CBO expects that changes to the ESPC statute under H.R. 8 would increase agencies' use of ESPCs to finance energy-related investments, which also would affect energy-related spending subject to appropriation. ESPCs allow agencies to pay for energy-related investments over time on the basis of anticipated and realized reductions in energy costs, which are generally paid from annual appropriations. CBO estimates that reductions in such costs attributable to contracts entered into under H.R. 8 would occur gradually over the period of time covered by such contracts—up to 25 years. As a result, most anticipated savings attributable to increased ESPCs would occur beyond the period covered by this estimate. CBO estimates that such savings would total $41 million over the 2016-2020 period and $182 million over the 2016-2025 period.

Those estimated savings would be partially offset by increased spending for certain services related to ESPCs entered into under the bill. Typically, when using such a contract, an agency agrees to make payments for services related to the operation and maintenance of newly installed equipment. Such agreements include measurement and verification activities to confirm that projects reduce energy consumption as guaranteed by the contract. Because the government can opt out of those services at any time, such contract-related costs are considered discretionary. For this estimate, CBO estimates that the cost of such services would total about 2.5 percent of the value of energy conservation measures acquired through ESPCs. Assuming appropriation of the necessary amounts, CBO estimates that discretionary spending for optional ESPC contract-related services would total $10 million over the 2016-2020 period and gradually increase as new contracts are entered into each year and payments on older contracts continue, totaling $45 million over the 2016-2025 period.

4. Given the volatility of oil prices, it may be difficult for DOE to match sales proceeds with appropriated amounts. CBO expects that DOE would deposit any excess proceeds in the SPR Petroleum Account, which is available to be spent without further appropriation for certain purposes.

Repeal of Requirement to Reduce Fossil Fuel Use. H.R. 8 would eliminate section 433 of the Energy Independence and Security Act of 2007 (EISA), which requires federal agencies to gradually phase out, and eliminate by 2030, the use of energy generated from fossil fuel in newly constructed federal buildings and buildings underdoing major renovations. Under current law, that provision is one of several energy-related requirements with which federal agencies must comply; for example, other statutory provisions and executive orders direct agencies to reduce overall consumption of energy and water, reduce greenhouse gas emissions, increase use of energy generated from renewable sources, and meet certain sustainability-related standards. According to DOE, agencies are expected, under current law, to make significant investments in energy-related technologies, many of which will help agencies simultaneously achieve multiple requirements.

For that reason, CBO estimates that repealing any single energy-related requirement would not necessarily change the overall amount of federal investments in energy-related technologies. In particular, during the 2016-2020 period covered by this estimate, agencies must also ensure that newly constructed buildings and major renovations are designed to achieve certain energy-efficiency standards; according to DOE, many investments that agencies pursue to comply with such standards are likely to simultaneously fulfill the requirement under section 433 of EISA. After 2020, CBO expects that incremental spending attributable to federal agencies' efforts to comply with the standard would increase as it becomes more stringent.

Nevertheless, CBO expects that repealing section 433 of EISA would, on the margin, reduce agencies' near-term costs. Although DOE has not yet finalized a rule to implement that provision, the department expects that, as an alternative to reducing the use of energy generated by fossil fuels, agencies will be allowed to achieve compliance by purchasing renewable energy certificates from firms that generate electricity from renewable resources. (Under current law, federal agencies purchase such certificates to comply with certain other energy-related requirements.)

Based on information from DOE, CBO estimates that under current law, agencies will use discretionary appropriations to purchase renewable energy certificates worth as much as $12 million over the next five years and $52 million over the 2016-2025 period in order to comply with section 433 of EISA. Thus, CBO estimates that repealing that provision would lead to discretionary savings of those amounts, assuming future appropriations for compliance costs are reduced accordingly.

Revenues

H.R. 8 would amend existing law regarding actions taken by electric utilities when DOE determines that the electric power system is experiencing emergency conditions. Under current law, during a designated emergency, DOE can require firms to produce or supply electricity to avoid or resolve blackouts or other risks to the electric power system. If those actions violate other regulatory requirements, such as air pollution limits, the affected firms may be liable for penalties under those laws. H.R. 8 would revise this framework by establishing new procedures for ensuring compliance with environmental standards during designated emergencies. The bill also would exempt firms from certain civil and criminal liability if the actions taken to comply with DOE's emergency orders violate environmental or other regulatory standards.

According to DOE, it has issued emergency orders to electric utilities six times since 1978, and none of those transactions resulted in the payment of penalties. Based on that historical experience, CBO estimates that revenues from such penalties would not be significant over the next 10 years under current law; as a result, CBO estimates that reducing firms' liability for such penalties would not result in any significant loss of federal revenues.

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. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 3.

TABLE 3. CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 8, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON ENERGY AND COMMERCE SEPTEMBER 30, 2015

	By Fiscal Year, in Millions of Dollars											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-2020	2016-2025
NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	14	32	46	46	46	46	46	46	46	46	184	414

INCREASE IN LONG-TERM DEFICIT AND NET DIRECT SPENDING

CBO estimates that enacting the legislation would not increase net on-budget deficits or net direct spending by $5 billion or more in any of the four consecutive 10-year periods beginning in 2026.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 8 would impose intergovernmental and private-sector mandates as defined in UMRA. Based on information from DOE, feedback from state agencies and industry sources, and analyses of similar requirements, CBO estimates that the aggregate cost of complying with the intergovernmental mandates would fall below the annual threshold established in UMRA ($77 million in 2015, adjusted annually for inflation). The cost of most of the private-sector mandates would be small. However, because the cost of one of the mandates would depend on future action by DOE, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA ($154 million, adjusted annually for inflation).

Mandates That Apply to Public and Private Entities

The bill could impose an intergovernmental and private-sector mandate on entities that are required to pay fees to FERC. If FERC increases those fees to offset the costs of implementing the bill, the bill would increase the cost of an existing mandate on entities required to pay those fees. The amount of fees collected would depend on the level of future appropriations. Based on incremental changes in past appropriations following other energy legislation, CBO estimates that any change in fees collected would not be substantial.

The bill would require state utility commissions and nonregulated electric utilities to consider the adoption of new standards related to electric grid resiliency and reliability, and the use of new energy technologies. The requirement to consider those standards would be an intergovernmental and private-sector mandate because it would increase those entities' responsibilities under existing mandates in the Public Utilities Regulatory Policies Act. Based on information from public utility commissions and industry sources, CBO expects that state utility commissions and nonregulated utilities would comply with the mandate using existing resources so that the incremental costs would be small.

Mandates That Apply to Public Entities Only

The bill also would impose an intergovernmental mandate by requiring state, local, and tribal agencies involved in the federal review process for natural gas and hydropower projects licensed by FERC to comply with new administrative requirements for expediting those reviews. Based on information from FERC and public utility commissions about workloads associated with those activities, CBO estimates that the costs of those mandates would be small.

In addition, H.R. 8 contains several preemptions of state and local authority. Because preemptions limit the authority of state and local governments, they are considered intergovernmental mandates under UMRA, but CBO estimates that those preemptions would not impose any duty that would result in additional spending or a loss of revenues by state, local, or tribal governments:

- Section 1102 would exempt electric utilities from complying with state and local environmental and liability laws if those laws would conflict with an emergency order by FERC to maintain grid reliability.

- Section 1106 would exempt companies from state and local laws that otherwise would require them to disclose vulnerabilities in cybersecurity products that the companies discover as part of the certification process in DOE's Cyber Sense program.

- Section 4125 would preempt state and local consumer protection laws by stating that the inclusion of an Energy Star label on a product does not create an express or implied warranty and shall not give rise to any private claims or rights of action.

- Section 4161 would preempt state disclosure laws relating to appliance energy use labels in cases where DOE revises definitions of covered appliances.

Mandates That Apply to Private Entities Only

The bill would impose private-sector mandates on electric transmission organizations, manufacturers of consumer products and equipment, and exporters of liquefied natural gas. The bill also would impose a private-sector mandate to the extent that it eliminates an existing right to seek compensation for damages under environmental laws.

Reporting requirement for electric transmission organizations. The bill would impose mandates on electric transmission organizations (Regional Transmission Organizations and Independent System Operators) that operate capacity markets. In capacity markets, power plants receive compensation for their capacity, or the power that they will provide at some point in the future. Under the bill the electric transmission organizations would be required to submit an analysis to FERC concerning the structure of each market that operates as a capacity market. Those organizations also would have to submit an analysis with each filing to establish a new capacity market or to substantially modify the design of an existing capacity market. Based on information from FERC, CBO anticipates that about 30 analyses would be submitted annually by electric transmission organizations. Based on the cost of similar types of reports, CBO estimates that the cost of completing each report could total a few million dollars.

Energy efficiency standards and labeling requirements. The bill would authorize DOE to modify the definitions of consumer products and equipment that are subject to energy efficiency standards if there is consensus among interested parties, including manufacturers. If DOE modifies a definition so that products or equipment are subject to more stringent standards for energy efficiency, the bill would impose a mandate on manufacturers of those products or equipment. The cost of the mandate would depend on future action by DOE. As such, CBO has no basis to estimate the cost of the mandate.

The bill also would allow the Federal Trade Commission (FTC) to issue labeling requirements for consumer products or equipment covered by a modified definition. Additionally, the bill would require FTC to consider including information about Smart Grid capability in product labels. Based on analyses of other labeling requirements, CBO expects that the cost to comply with any such changes to labeling requirements would not be substantial.

Disclosure requirement for exports of liquefied natural gas. The bill would impose a private-sector mandate on entities seeking DOE approval to export liquefied natural gas (LNG). The Natural Gas Act requires entities seeking to export natural gas to obtain approval from DOE. The bill would require that applicants, as a condition for approval, publicly disclose the countries that would receive the exports. Exporters currently report information about destination countries to DOE on a monthly basis. According to DOE, close to 100 applications have been approved or are pending for export of LNG. Because the number of applications for export is small and the cost to disclose destination countries is low, CBO estimates that the cost of this mandate would be small.

Elimination of a right of action. The bill would impose a private-sector mandate to the extent that it eliminates an existing right to seek compensation for damages under environmental laws from utilities operating in compliance with certain federal emergency orders issued by FERC. The cost of the mandate would be the forgone value of awards and settlements in such claims. Because FERC has issued emergency orders infrequently, CBO expects that such claims would be uncommon in the future. Consequently, CBO expects that the cost of the mandate would be small.

PREVIOUS CBO ESTIMATE

On October 15, 2015, CBO transmitted a cost estimate for S. 2012, the Energy Policy Modernization Act of 2015, as reported by the Senate Committee on Energy and Natural Resources on September 9, 2015. Title I of that legislation contains several provisions that are substantively similar to provisions of H.R. 8. In particular, both bills would authorize funding for activities to increase the energy-efficiency of buildings and appliances and eliminate the existing requirement (under section 433 of EISA) for federal agencies to reduce consumption of energy generated from fossil fuels. Our cost estimates of those provisions are the same for both bills.

In addition, both H.R. 8 and S. 2012 contain substantively similar provisions that would modify federal agencies' authority to use ESPCs to finance energy-related investments, and our estimates of additional direct spending and changes in spending subject to appropriation attributable to those provisions are the same. However, S. 2012 would make additional changes—by modifying certain energy-related requirements for federal agencies and expanding agencies' authority to use utility service energy contracts—that CBO expects would result in higher levels of direct spending and larger changes in spending subject to appropriation than H.R. 8.

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