



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

June 28, 2013

H.R. 2218 **Coal Residuals Reuse and Management Act of 2013**

*As ordered reported by the House Committee on Energy and Commerce
on June 19, 2013*

SUMMARY

H.R. 2218 would provide for the management and disposal of coal combustion residuals (CCR) under subtitle D of the Solid Waste Disposal Act, also known as the Resource Conservation and Recovery Act (RCRA). (CCR consists of inorganic residues that remain after pulverized coal is burned.) Consistent with subtitle D of RCRA, this legislation would allow states to create and enforce their own CCR permit programs while providing the Environmental Protection Agency (EPA) with limited authority to review states' permit programs. However, H.R. 2218 would enable EPA to directly regulate CCR in states that fail to set up their own programs or in states where the permit program is determined to be deficient and is not subsequently remedied by the state.

CBO estimates that implementing this legislation would cost \$2 million over the 2014-2018 period, subject to the availability of appropriated funds. Enacting H.R. 2218 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2218 would impose intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) by expanding an existing preemption of state laws that regulate greenhouse gases from motor vehicles and by requiring states to notify EPA whether they will adopt and implement a permit program for CCR. The bill also would impose an intergovernmental and private-sector mandate on owners and operators of structures that receive CCR by establishing minimum federal requirements for the management and disposal of CCR. Based on information from EPA, a small number of public entities would be required to comply with the federal standards, and CBO estimates that the cost for those entities to comply would fall below UMRA's annual threshold for intergovernmental mandates (\$75 million in 2013, adjusted annually for inflation). However, given the number of private-sector entities that would need to take corrective action and the costs to comply, CBO estimates that the cost of the mandates would probably exceed the annual threshold established in UMRA for private-sector mandates (\$150 million in 2013, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that implementing H.R. 2218 would cost EPA \$2 million over the next five years. The costs of this legislation fall within budget function 300 (natural resources and environment).

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 2218 will be enacted by the beginning of fiscal year 2014 and that the necessary amounts will be made available from appropriated funds.

Certification of State CCR Permit Programs and CCR Permitting on Tribal Lands

Based on information from EPA and other industry experts, CBO expects that all states with coal-fired power plants (that is, 45 states and Puerto Rico) would probably elect to operate their own programs to manage disposal of the waste material. Under this legislation, states would have six months after the bill's enactment to notify EPA of their intentions to adopt and implement their own CCR permit program; then, within three years of the bill's enactment, the state agencies responsible for implementing the permit programs would be required to submit certifications of the state programs to EPA.

In addition, this legislation would require EPA to implement a CCR permit program on tribal lands. Because this legislation would not provide EPA with the authority to substantially review certifications and because there are only three coal-generating stations located on tribal lands that would require permits, CBO estimates that EPA's workload for this activity over the 2014-2018 period would not be significant.

Based on information from EPA, CBO estimates that, over the 2014-2018 period, EPA would incur costs of about \$200,000 to \$300,000 annually to support the initial certification process.

Review of Existing State CCR Permit Programs

H.R. 2218 would provide EPA with the authority to evaluate whether a state's CCR permit program is being implemented consistent with the minimum program specifications established under the bill. Consequently, EPA's costs to implement the legislation could increase beginning in 2018—after state programs are certified and operational—to the extent that EPA would need to review certain state CCR permit programs for deficiencies. According to EPA and other industry experts, such reviews could be initiated by a petition for government action from an environmental group or other interested parties.

While it is not likely that EPA would immediately review the CCR permit programs for all states, some reviews of programs in states with high coal consumption would probably be initiated beginning in 2018. Based on information from EPA, CBO estimates that reviewing a state program would cost, on average, about \$165,000 and would generally take less than one year to complete. Thus, assuming that EPA would initiate reviews of several state CCR permit programs beginning in 2018, CBO estimates that work would cost \$1 million to \$2 million in 2016. (Additional reviews and EPA costs could occur after 2018.)

PAY-AS-YOU-GO CONSIDERATIONS: None.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 2218 would impose intergovernmental mandates as defined in UMRA by expanding an existing preemption of state laws that regulate greenhouse gases from motor vehicles and by requiring states to tell EPA whether they will adopt and implement a permit program for CCR. Although the preemption would limit the application of state law, CBO estimates that it would impose no duty on state governments that would result in additional spending. CBO estimates that the cost, if any, of the notification requirement would be small. If states chose to adopt and implement a CCR program, any costs they incurred would result from participation in a voluntary federal program and not from the requirements of an intergovernmental mandate.

By establishing minimum federal requirements for the management and disposal of CCR, the bill would impose an intergovernmental and private-sector mandate on owners and operators of structures that receive CCR. Based on information from EPA, a small number of public entities would be required to comply with the federal standards, and CBO estimates that the cost for those entities to comply would fall below UMRA's annual threshold for intergovernmental mandates (\$75 million in 2013, adjusted annually for inflation).

The cost of the mandate on the private sector would depend on the number of entities that would need to take corrective action. Based on information from EPA and industry sources, CBO estimates that those costs would amount to \$150 million or more annually. Consequently, the cost of the mandates would probably exceed the annual threshold established in UMRA for private-sector mandates (\$150 million in 2013, adjusted annually for inflation).

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