



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

October 23, 2009

H.R. 3258 **Drinking Water System Security Act of 2009**

*As ordered reported by the House Committee on Energy and Commerce
on October 21, 2009*

SUMMARY

H.R. 3258 would authorize the Environmental Protection Agency (EPA) to regulate the security of community water systems serving more than 3,300 people and other public water systems that EPA determines present a security risk. Under the bill, EPA would develop regulations to require the covered water systems to perform vulnerability assessments and to establish site security plans and emergency response plans. In addition, EPA would provide grants to or enter into cooperative agreements with states, nonprofit organizations, or covered water systems to support research and training related to the security of such facilities, and for the preparation of assessments and plans related to security. The grants also could be used to implement security measures.

CBO estimates that implementing H.R. 3258 would cost about \$1 billion over the 2010-2014 period, assuming appropriation of the necessary amounts. Enacting H.R. 3258 could affect direct spending and receipts because the bill would establish new criminal and civil penalties against owners and operators of covered water systems and others who fail to comply with the bill's requirements. However, CBO estimates that any collections from such penalties would not be significant.

H.R. 3258 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new security requirements on owners and operators of drinking water systems. Because the costs of the mandates on state, local, and tribal governments would depend on future regulations, CBO cannot determine whether the aggregate costs of the mandates would exceed the annual threshold established in UMRA for intergovernmental entities (\$69 million in 2009, adjusted annually for inflation). CBO estimates that the costs of the mandates to private-sector entities would probably fall below the annual threshold established in UMRA (\$139 million in 2009, adjusted annually for inflation) because the number of privately owned systems is small.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3258 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					2010-2014
	2010	2011	2012	2013	2014	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	0	315	322	329	338	1,304
Estimated Outlays	0	126	271	324	332	1,053

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 3258 will be enacted during fiscal year 2010, the amounts necessary to implement the bill will be appropriated each year, and that outlays will follow historical spending patterns for similar programs.

This legislation would authorize the appropriation of \$315 million for fiscal year 2011. Of that amount, \$30 million would be used by EPA for administrative expenses, \$125 million would be used to assist covered water systems use safer chemicals or reduce the amount of dangerous chemicals stored onsite, and \$160 million would be used to fund grants. Grants could be used by states or nonprofit organizations to support training, prepare vulnerability assessments and security plans, and implement security enhancements, which would include, for example, the installation of surveillance equipment.

For fiscal years 2012 through 2015, this legislation would authorize the appropriation of such sums as necessary. For each year after 2011, CBO estimates that EPA would require the same level of funding as in 2011, with annual adjustments for anticipated inflation, to support the requirements under the bill and the grants. In total, CBO estimates that enacting this legislation would cost about \$1 billion over the 2011-2014 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3258 contains intergovernmental and private-sector mandates as defined in UMRA because it would impose new security requirements on owners and operators of drinking water systems. Because the costs of the mandates on state, local, and tribal governments

would depend on future regulations, CBO cannot determine whether the aggregate costs of the mandates would exceed the annual threshold established in UMRA for intergovernmental entities (\$69 million in 2009, adjusted annually for inflation). CBO estimates that the costs of the mandates to private-sector entities would probably fall below the annual threshold established in UMRA (\$139 million in 2009, adjusted annually for inflation) because the number of privately owned systems is small.

Mandates That Apply to Public and Private Entities

The bill would impose several new requirements on owners and operators of covered drinking water systems (those serving populations of over 3,300 people). The bill would require those facilities to comply with performance standards to be issued by EPA for facility security. Such standards could include infrastructure upgrades and changes to security procedures. The bill also would require owners and operators of covered water systems that possess chemicals in excess of a threshold set by EPA to assess and potentially implement alternative measures for increasing security at their facilities if such facilities are designated as high risk by EPA. Such measures include the use of alternative chemicals to process drinking water and modifications to chemical storage practices. The bill also would require owners and operators of covered water systems to update vulnerability assessments and emergency response plans, and to prepare and implement site security plans. Further, the bill would require owners and operators of covered water systems to maintain copies of planning documents, provide access for audits and inspections, and provide employees with training annually.

Depending on future regulations governing performance standards, chemical thresholds, the number of covered water systems designated as high risk, and the implementation schedule for vulnerability assessments and site security plans, the costs to covered water systems could be significant. Those costs could result from new procedural requirements or, in some cases, capital improvements. At the same time, many water systems may already have security systems and procedures in place that would meet the new requirements. Because of uncertainty about the scope and implementation timeline of the bill's requirements, CBO has no basis for determining annual costs of the mandates on publicly owned systems. However, because the number of privately owned systems that would be affected is small, CBO estimates that the cost of the mandates to private-sector entities would fall below the annual threshold established in UMRA.

Mandates That Apply to Public Entities Only

H.R. 3258 would preempt state and local laws that provide public access to information and require covered water systems to submit security plans. The bill also would preempt any state or local regulation that would conflict with the security activities authorized by the bill. Further, the bill would require state, local, and tribal authorities, such as law

enforcement officials, to share information. CBO estimates that the costs of those mandates would be small.

Other Impacts

H.R. 3258 would authorize \$125 million for fiscal year 2011 for grants to covered water systems to increase security at their facilities. The bill also would authorize such sums as necessary for fiscal years 2012 through 2015 for such activities.

ESTIMATE PREPARED BY:

Federal Costs: Susanne S. Mehlman
Impact on State, Local, and Tribal Governments: Ryan Miller
Impact on the Private Sector: Amy Petz

ESTIMATE APPROVED BY:

Peter H. Fontaine
Assistant Director for Budget Analysis