



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

Revised July 18, 2007

H.R. 2693

A bill to direct the Occupational Safety and Health Administration to issue a standard regulating worker exposure to diacetyl

As ordered reported by the House Committee on Education and Labor on June 20, 2007

H.R. 2693 would require the Department of Labor to issue regulations intended to protect workers from harmful exposure to the chemical diacetyl. Interim standards would be issued no later than 90 days after this bill is enacted, and a final standard no later than two years after enactment. Diacetyl is a substance used in many food flavorings, such as artificial butter flavorings for microwave popcorn. Since 2000, several organizations, including the National Institute of Occupational Safety and Health (NIOSH), have raised concerns regarding the health affects of diacetyl on workers in manufacturing plants that use the chemical. The Occupational Safety and Health Administration (OSHA) is developing an inspection program but no regulations have been issued to date.

In addition, the bill would require NIOSH to conduct a study of food flavorings used in the production of microwave popcorn. The study would prioritize which chemicals are most closely associated with diacetyl in order to determine possible exposure hazards. Furthermore, NIOSH would establish recommended exposure limits based on the study's findings and transmit those findings to OSHA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO estimates that implementing H.R. 2693 would cost approximately \$1 million in 2008, assuming appropriation of the necessary amounts. CBO assumes these funds would be used primarily to fund the NIOSH study required by the bill. Costs in 2009 would not be significant. Enacting the bill would not affect revenues or direct spending.

IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2693 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). States may develop and operate their own job safety and health programs if those programs are approved by OSHA; currently, 26 states operate such programs. Those states might incur costs to administer and enforce the new standards that OSHA would be required to promulgate under the bill. However, those costs would be incurred voluntarily, and half of those costs could be reimbursed through matching grants from the federal government under an existing program.

The state of California is in the process of developing standards regulating workers' exposure to diacetyl. Under H.R. 2693, California would be required to demonstrate to OSHA that the state's standards will be at least as effective as the standards promulgated by OSHA. If its standards were determined to be less effective, the federal standards would apply. Any costs incurred by California to demonstrate the effectiveness of the state standards would be incurred as a result of its voluntary participation in the federal program.

IMPACT ON THE PRIVATE SECTOR

H.R. 2693 would impose private-sector mandates as defined in UMRA on facilities that use, handle, or produce diacetyl—primarily involving food flavorings and microwave popcorn. The interim standards promulgated by OSHA would have to be consistent with the recommendations in the NIOSH Alert, "Preventing Lung Disease in Workers Who Use or Make Flavorings." Because a large segment of those two industries has implemented many of NIOSH's recommended protections for diacetyl exposure, CBO estimates that the costs associated with compliance with the interim standard would fall below the annual threshold for private-sector mandates established by UMRA (\$131 million in 2007, adjusted annually for inflation). The interim standard would remain in effect until the final standard is issued.

The final standard would contain, at a minimum, the provisions in the interim standards, as well as limits on short-term exposure and permissible exposure. The final standard would apply to all facilities where diacetyl is produced or used. The cost to the private sector of complying with mandates in the final standard is uncertain because it would depend on regulations that have not yet been established. Because there is no basis for predicting the specific equipment and procedures the final standard would require and the industries that would be affected, CBO cannot estimate the incremental costs that could result from that standard. Therefore, CBO cannot determine whether the aggregate cost of the mandates would exceed the UMRA's annual threshold for private-sector mandates.

PREVIOUS CBO ESTIMATE

This estimate supersedes the previous cost estimate for H.R. 2693, which CBO transmitted on July 13, 2007. Our July 13 estimate erroneously indicated that the bill would require the NIOSH study to be completed prior to issuance of final standards from OSHA and that OSHA had already implemented a diacetyl inspection program. This revised estimate corrects the description of those provisions but does not change the estimated cost of the bill.

The CBO staff contacts for this estimate are Sean Dunbar or Geoffrey Gerhardt (for federal costs), Lisa Ramirez-Branum (for the impact on state and local governments), and Justin Hall (for the impact on the private sector). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.