CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 10, 2008

S. 906
Mercury Export Ban Act of 2008

As ordered reported by the Senate Committee on Environment and Public Works on July 31, 2008

SUMMARY

S. 906 would ban the export of elemental mercury, prohibit federal agencies from selling or distributing mercury, and direct the Department of Energy (DOE) to provide permanent storage for domestic stocks of mercury under certain conditions. Under this bill, firms would be allowed to begin delivering mercury to DOE on January 1, 2010, and would be required to pay a one-time fee sufficient to cover most of the department's long-term costs of storing it. DOE would indemnify those entities from legal actions resulting from any actual or threatened release of mercury occurring after the materials are delivered to the federal facility. In addition, DOE's mercury storage operations would have to comply with various performance standards, including the Solid Waste Disposal Act. Finally, the bill would direct DOE and the Environmental Protection Agency (EPA) to prepare reports on issues related to the storage of domestic mercury and the disposition of global supplies.

Implementing this bill would affect both discretionary spending and direct spending. Assuming appropriation of the necessary amounts, CBO estimates that DOE would spend $8 million over the 2009-2013 period and additional amounts thereafter to provide for the permanent storage of commercially generated mercury. CBO also estimates that enacting this bill would reduce net direct spending by $8 million over the 2009-2018 period by increasing offsetting receipts (an offset to direct spending) from the one-time fee that would be paid by firms transferring mercury to DOE. Enacting this legislation would not affect revenues.

S. 906 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 906 would impose a private-sector mandate as defined in UMRA. It would prohibit the export of elemental mercury from the United States beginning in 2010. Based on information from the U.S. Geological Survey, CBO estimates that the cost of that mandate

would fall below the annual threshold established in UMRA ($136 million in 2008, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 906 is shown in the following table. The costs of this legislation fall within budget functions 270 (energy) and 300 (natural resources and environment).

	By Fiscal Year, in Millions of Dollars					
	2009	2010	2011	2012	2013	2009-2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	0	2	2	3	2	9
Estimated Outlays	0	1	2	3	2	8
CHANGES IN DIRECT SPENDING [a]						
Estimated Budget Authority	0	0	*	-2	-2	-4
Estimated Outlays	0	0	*	-2	-2	-4

Note: * = between zero and -$500,000.

a. CBO estimates that enacting this bill would result in a net increase in offsetting receipts of $8 million over the 2009-2018 period.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the amounts necessary to implement the bill will be appropriated each year. Estimated outlays reflect historical spending patterns for similar activities.

S. 906 would require DOE to take custody of commercial stocks of domestic mercury, subject to certain conditions. According to reports from EPA-sponsored stakeholders' meetings held in 2007, the cumulative volume of mercury eligible for DOE storage would probably range between 7,500 metric tons and 10,000 metric tons. The amounts likely to be delivered over the next several years are difficult to predict because they would depend on investment decisions made by individual firms. Based on information in those reports, CBO expects that the demand for permanent storage would total about 1,700 metric tons over the next 10 years.

For this estimate, CBO assumes that DOE could store an additional 1,200 metric tons of mercury in its existing mercury storage building in Oak Ridge, Tennessee, but would have to build or renovate additional facilities to accommodate the remainder. Thus, we expect that DOE would have to begin developing new capacity within the next five years and would start receiving materials at the new facility sometime after 2013. Any fees collected for mercury delivered to DOE's existing storage facility would be deposited in the Treasury as offsetting receipts, which would reduce direct spending. (By contrast, fees paid for materials delivered to a new or renovated facility would be contingent on appropriation actions, and would be collected after 2013.)

Spending Subject to Appropriation

Based on information from DOE, EPA, and the stakeholders' meetings, CBO estimates that implementing this bill would require the appropriation of about $9 million over the 2009-2013 period and additional sums over the life of the mercury storage operation. CBO expects that DOE would have to spend about $2 million to develop guidelines, reports, and analyses required by the bill; another $2 million for building upgrades, training, and staff needed to store the commercial mercury in a manner consistent with the environmental and safety standards in the bill; and roughly $5 million to plan and develop new storage capacity. In addition, CBO estimates that EPA would spend less than $500,000 a year to develop the guidelines and reports required by the bill. Estimated spending for DOE and EPA activities would total $8 million over the next five years.

DOE's costs could exceed the amounts included in this estimate if state or federal regulatory agencies determined that other upgrades to its Oak Ridge facility were needed to comply with the new performance standards. For example, replacing the department's 40-year old mercury storage flasks would cost about $21 million according to DOE. Whether such costs would be incurred is unknown, and such potential costs are not included in this estimate.

Direct Spending

S. 906 would affect direct spending in two ways. First, any fees collected for mercury delivered to the existing storage facility at Oak Ridge would increase offsetting receipts (a credit against direct spending). Second, the provisions requiring DOE to indemnify those firms from certain environmental actions could result in a net cost to the government if the fees do not fully cover DOE's liabilities under this legislation.

Proceeds from the one-time storage fees would depend on how much DOE would charge. S. 906 would direct the department to set fees sufficient to cover the long-term costs of permanently storing the commercial stocks of mercury, excluding regulatory compliance and land acquisition expenses. The legislation would not limit the time for cost recovery (storage of this toxic element would continue indefinitely), or allow for any other adjustments to the cost calculation. CBO expects that the fees necessary to cover the cost of permanent storage would likely exceed the amount that industry would be willing to pay. For this estimate, however, CBO assumes that DOE would accept custody of the mercury that could be stored at its Oak Ridge facility and would set the fee at about $3 per pound (or $6,600 per metric ton), which is at the high end of the range shown in reports from the stakeholders' meetings but less than a fee that would be needed to fully offset the agency's costs. At that level, we estimate that the fee would generate offsetting receipts of $8 million over the 2011-2018 period.

Based on guidelines issued by EPA and the Office of Management and Budget, CBO assumes that DOE would set fees sufficient to compensate the government for the environmental liabilities associated with storing commercial mercury. Thus, CBO estimates that the government's indemnification of owners of mercury from environmental liability under this bill would have no net impact on direct spending over the 2009-2018 period.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 906 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 906 would impose a private-sector mandate as defined in UMRA. It would prohibit, with some exceptions, the export of elemental mercury from the United States beginning in 2010. The cost of the mandate to the private sector would be the loss of net income to entities currently involved in exporting mercury and, in some cases, the cost to those exporters of storing the mercury that cannot otherwise be sold. Information from the U.S. Geological Survey indicates that the value of mercury exports was less than $10 million in 2006. Further, CBO expects that the cost of storage would not be substantial. Consequently, CBO estimates that the cost of the mandate would fall below the annual threshold established in UMRA ($136 million in 2008, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE:

On November 9, 2007, CBO transmitted a cost estimate for H.R. 1534 as ordered reported by the House Committee on Energy and Commerce on October 30, 2007. The two bills are nearly identical, and the cost estimates for each bill are the same although we would now expect a later implementation date.

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