CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 5, 2005

H.R. 3893
Gasoline for America's Security Act of 2005

As ordered reported by the House Committee on Energy and Commerce on September 28, 2005

SUMMARY

H.R. 3893 would authorize new programs and spending related to the supply and use of petroleum and other energy products. It would provide subsidies to small refiners, make certain federal lands available for siting new refineries, and revise the terms and procedures for approving these and other energy projects. The bill also would modify various standards in the Clean Air Act, direct the Federal Trade Commission (FTC) to issue and enforce regulations regarding gasoline price gouging, and create two new funds to cover certain costs incurred by energy firms. Other provisions would authorize appropriations for the construction of a refinery for the Armed Services, for several energy studies and conservation initiatives, and for a Commission for the Deployment of the Hydrogen Economy. Finally, H.R. 3893 would authorize the Department of Energy (DOE) to increase the capacity of the Northeast Home Heating Oil Reserve and allow oil in the Strategic Petroleum Reserve (SPR) to be sold for new purposes.

CBO estimates that enacting H.R. 3893 would increase direct spending by $1.5 billion over the next five years, and by $3 billion over the 2006-2015 period. Enacting this bill could affect revenues, but CBO estimates that any effect would not be significant. In addition, CBO estimates that implementing the bill would cost about $500 million over the 2006-2010 period, assuming appropriation of the necessary amounts.

H.R. 3893 contains numerous mandates, as defined in the Unfunded Mandates Reform Act (UMRA), that would affect both intergovernmental and private-sector entities. CBO estimates that the aggregate cost of those mandates would be below the annual thresholds established in UMRA ($62 million for intergovernmental mandates and $123 million for private-sector mandates in 2005, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3893 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 270 (energy), 300 (natural resources and environment), 370 (commerce and housing assistance), and 950 (undistributed offsetting receipts).

	By Fiscal Year, in Millions of Dollars				
	2006	2007	2008	2009	2010
CHANGES IN DIRECT SPENDING [a]					
Estimated Budget Authority	300	300	300	300	300
Estimated Outlays	300	300	300	300	300
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Specified Authorizations					
Authorization Level	5	2	2	2	2
Estimated Outlays	4	3	2	2	2
Refinery for Armed Services					
Estimated Authorization Level	5	15	15	60	300
Estimated Outlays	3	11	15	42	204
Heating Oil Reserve					
Estimated Authorization Level [b]	10	73	68	8	8
Estimated Outlays	10	73	68	8	8
Other					
Estimated Authorization Level	18	10	6	6	6
Estimated Outlays	14	12	7	6	6
Total Authorizations in H.R. 3893					
Estimated Authorization Level	38	100	91	76	316
Estimated Outlays	31	99	92	58	220

a. CBO estimates that the direct spending costs would continue at a level of about $300 million a year through 2015.

b. These estimates are based on oil price assumptions in CBO's March 2005 baseline. Using current prices could raise the provision's total cost by $75 million or more.

BASIS OF ESTIMATE

For this estimate, CBO assumes that the bill will be enacted in the fall of 2005 and that the amounts authorized will be appropriated as necessary.

Direct Spending and Revenues

CBO estimates that enacting H.R. 3893 would reduce offsetting receipts (a credit against direct spending) by an estimated $3 billion over the 2006-2015 period as a result of provisions that would provide federal royalty oil to small refiners at below-market prices. Other provisions in the bill could affect direct spending and revenues, but CBO estimates that the net effect of those changes would not be significant.

Discounted Sales of Royalty-In-Kind Oil to Small Refiners. Under current law, when collecting royalties from federal oil and gas leases, the Secretary of the Interior may accept payments in the form of product (known as royalty in-kind, or RIK) rather than cash. The Minerals Management Service (MMS) sells most of the oil taken in-kind from offshore leases on the open market, but a portion of that oil is sold through competitive auctions to certain small refiners. Through that program, eligible refiners can request to purchase up to 60 percent of their supply of crude oil from MMS rather than on the open market. Net proceeds from sales of offshore oil under those programs are deposited in the Treasury as offsetting receipts (a credit against direct spending).

Section 111 would require MMS to offer crude oil to eligible refiners at a discount of up to $4.50 per barrel. Because current law effectively prohibits MMS from accepting less than the market value of oil sold to small refiners, enacting this provision would reduce offsetting receipts from those sales. In addition, CBO expects that offering discounted oil would significantly increase the volume of oil that small refiners request to purchase from the agency, resulting in a further loss of receipts. Based on information from MMS, CBO estimates that increased demand under the proposed program would greatly exceed the supply of oil that the agency is currently taking in-kind. MMS currently receives about 180,000 barrels of RIK oil per day. Assuming that the agency makes all of that oil available for sale at a discount, we estimate that this provision would reduce offsetting receipts by up to $300 million a year starting in 2006.

Under the bill, MMS could only offer discounted oil during times when the Secretary of Energy determines that domestic refining capacity is insufficient. The Secretary is not currently required to make such a determination, and for this estimate, CBO assumes that the Administration would not deem domestic capacity to be sufficient in the near future because refinery capacity is unlikely to change significantly in the next decade. Obtaining the necessary approvals , permits, and financing for a new refinery generally takes several years, and construction usually takes an additional several years.

Strategic Petroleum Reserve. DOE built the existing SPR with appropriated funds and filled it to a target level of 700 million barrels with oil purchased directly on the open market and oil transferred from the Department of the Interior under the RIK program. Under current law, DOE is authorized to expand the capacity of the SPR to 1 billion barrels of oil.

H.R. 3893 would allow the department to sell some of the oil in the existing SPR to raise money to finance an expansion of the SPR. Any spending for new capacity would be subject to appropriation. If DOE opted to draw down the nation's existing SPR reserve for this purpose, CBO expects that it would take steps to refill the reserve by transferring oil from the Department of the Interior's RIK program as DOE has done in recent years. Thus, any increase in offsetting receipts from the sale of SPR oil would be offset by a reduction in receipts from royalties collected by the Department of the Interior, resulting in no significant net change in federal receipts over time. Given the complexity of these transactions, it is unclear whether DOE would use these authorities in the next few years.

Energy Assistance Accounts. H.R. 3893 would create two new sources of financial assistance for energy firms: a Standby Refinery Support Account to pay for certain private costs resulting from regulatory or litigation delays in the construction or renovation of refineries, and a Critical Energy Assurance Account to assist certain private energy companies during federally declared disasters or emergencies. Funding for the new accounts would be derived from any voluntary contributions from nonfederal entities and any funds provided in future appropriation acts. DOE would be allowed to spend private-sector contributions without further appropriation but no federal funds could be spent without appropriation. CBO anticipates that contributions from nonfederal sources and any related spending are likely to be negligible.

Lease of Federal Lands for Refineries. H.R. 3893 would direct the President to designate and lease sites on federally owned lands for the construction of refineries, subject to certain terms and conditions. Factors to be considered for selecting federal property include proximity to crude oil supplies and related pipeline infrastructure, geographic diversity of refinery capability, and approval of the Governor of the state. CBO has no information about when or which sites might be leased; however, based on payment rates for the use of other federal land, CBO estimates that offsetting receipts from such leases probably would not be significant.

Revenues

H.R. 3893 would expand the scope of the FTC's enforcement authorities by treating price gouging as a violation of rules regarding unfair or deceptive acts or practices. The FTC would be authorized to enforce new standards and impose civil penalties for any violations.

Amounts collected as civil penalties are classified as governmental receipts (revenues). CBO estimates that enacting this provision would be unlikely to have a significant effect on revenues.

Spending Subject to Appropriation

H.R. 3893 would authorize appropriations for various activities, ranging from the design and construction of a refinery to studies of ways to promote carpools and vanpools. CBO estimates that implementing those provisions would cost about $500 million over the 2006-2010 period, assuming appropriation of the necessary amounts.

Specified Authorizations. This bill would expressly authorize the appropriation of $13 million for three programs administered by DOE. It would authorize the appropriation of $10 million for a DOE program to encourage minority students to study geologic subjects that would enable them to work in energy industries; $2.5 million for a campaign to encourage drivers to conserve gasoline; and $850,000 for a grant to an educational institution to develop a prototype of a coal-based fuel cell.

Federal Refinery Project. H.R. 3893 would authorize the President to build a petroleum refinery plant on federal land to serve the fuel needs of the Armed Services, subject to certain terms and conditions. A project could be developed only if the President found that domestic refining capability was not sufficient and if construction funds were appropriated in advance.

Petroleum refineries are expensive facilities, with capital costs ranging from about $2 billion to $4 billion, depending on their size, capabilities, and location. Industry studies suggest that obtaining the necessary approvals and financing typically takes several years and that construction usually takes more than five years. Given the lead times for planning such a facility, CBO expects that near-term costs would primarily be for planning and siting a facility, with construction-related expenditures beginning in 2010. Thus, assuming the President chooses to build a refinery and that the necessary amounts are appropriated, CBO estimates that implementing this project would cost about $275 million over the 2006-2010 period for planning and preconstruction activities and a total of at least $2 billion over the 10-year period.

Northeast Home Heating Oil Reserve. HR. 3893 would increase the authorized capacity of the Northeast Home Heating Oil Reserve from 2 million barrels to 5 million barrels. For this estimate, we assume that DOE would purchase additional oil over the 2006-2008 period. Using the oil price assumptions in CBO's March 2005 baseline projections, we estimate that adding 3 million barrels would cost about $167 million dollars over the 2006-2010 period, assuming appropriation of the necessary amounts. However, current prices far exceed those assumed in the March baseline. If oil prices remain near current levels, the cost of this provision could be higher by $75 million or more.

Energy Assistance Accounts. This bill would authorize appropriations to the proposed Standby Refinery Support Account and Critical Energy Assurance Account. The amount of any federal contributions over the 2006-2010 period is uncertain because the need for funding would depend on actions taken by private parties or events such as natural disasters that are hard to predict. CBO's estimate does not include any costs for implementing the two funds over the 2006-2010 period, but such costs could be significant in later years.

The Standby Refinery Support Account would pay for certain costs incurred by private developers of new or expanded refinery capacity in the United States. Refiners would be eligible for payments if projects experience delays due to federal or state regulatory actions or unforseen litigation. Virtually all costs attributable to the delay would be eligible for compensation, including principal or interest due on any debt and the costs of complying with new regulations.

The need to appropriate money for this purpose would occur only if private parties choose to invest in new or expanded refinery capacity and experienced delays. CBO believes that the likelihood of new refinery projects being built in the next few years is relatively low, given the high capital cost of refineries, their generally low rates of return, and the availability of alternative sources of refined products. Even if firms choose to invest in new or refurbished refineries, it is likely that the costs that could be attributed to a regulatory delay would be incurred after 2010, given the standard lead times needed for planning, siting, and financing a project. Standby support for such multibillion dollar projects could be very costly over a longer period, however, because such large projects commonly experience some regulatory or litigation delays in the course of their development.

The Critical Energy Assurance Account would be available to assist private firms that operate critical energy infrastructure during any federally declared emergency or disaster. The fund could be used to pay for equipment needed to restore access to power, water, and other materials as well as for logistical support and emergency planning. Such costs typically are borne by private companies, and CBO assumes that such federal assistance would only occur in the event of a major disaster such as Hurricane Katrina. Because such disasters are uncommon and cannot be predicted, CBO's estimate does not include any spending for this program over the 2006-2010 period.

Other Authorizations. Other provisions of the bill would authorize appropriations for several energy studies and conservation initiatives at DOE; FTC actions on gasoline price gouging; new rulemaking proceedings at the Environmental Protection Agency; and a Commission for the Deployment of the Hydrogen Economy. Based on the costs of similar programs and activities, CBO estimates that implementing those provisions would cost about of $45 million over the 2006-2010 period.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 3893 contains numerous mandates, as defined in UMRA, that would affect both intergovernmental and private-sector entities. The bill would preempt the authority of state and local governments to implement their own clean fuel programs and to authorize the siting of refineries within their borders. Those preemptions constitute intergovernmental mandates as defined in UMRA, however, CBO estimates that they would not impose significant additional costs on state, local, or tribal governments and would be well below the threshold established in UMRA ($62 million in 2005, adjusted annually for inflations).

The bill also would impose several private-sector mandates on all U.S. refineries and natural gas service providers. Based on information provided by industry and government sources, CBO expects that the aggregate direct costs of complying with those mandates would be minimal compared to the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

State Participation and Presidential Designation

Section 101 would preempt the authority of state and local governments that receive a Presidential designation for the purposes of siting a refinery on federal lands within their borders. A Governor of a state receiving such a designation would be able to object to the designation, but the Congress would be authorized to override such an objection. CBO estimates that the costs associated with this preemption would be minimal.

Governmental entities also would be subject to a judicial review and possibly fees associated with litigation if they do not comply with procedures associated with a Presidential designation. CBO cannot estimate the number of judicial reviews or the amount of fees that could result from enactment of this provision; however, we expect that the requirements would not impose significant costs.

Waiver Authority for Extreme Fuel Supply Emergencies

Section 107 would authorize the President, in consultation with the EPA and DOE, to waive —for a period not more than 90 days—state or local statutes or regulations related to fuel or fuel-additive requirements. This provision also would preempt state authority to address local or regional concerns with air quality. CBO estimates that this preemption would not impose significant additional costs on governmental entities.

Federal List of Fuel Blends

The Clean Air Act allows individual states to implement their own clean fuel programs to address local or regional concerns about air quality. The Energy Policy Act of 2005 (EPACT) requires the EPA to (1) determine the total number of fuels approved by the federal government in all state implementation plans and (2) publish a list of those fuels in the Federal Register for public review and comment no later than November 6, 2005. EPACT also limits the total number of fuels on the approved list and would prohibit the addition of new fuels to the list without the removal of an older fuel.

Section 108 would require EPA to identify and publish in the Federal Register a new list of six approved fuel blends, and thereby limit the number of federally approved fuel blends. The federal list of fuels would supersede any list currently allowed under state implementation plans. The federal fuels list would include one diesel fuel, one alternative diesel fuel, one conventional gasoline for ozone attainment areas, one reformulated gasoline, and two additional gasoline blends with Reid Vapor pressure (RVP) controls for use in ozone nonattainment areas. RVP indicates how quickly a substance evaporates. Gasoline with a high RVP evaporates more readily at a given temperature, allowing components of gasoline that contribute to smog formation to escape into the atmosphere.

In reviewing state implementation plans under section 108, EPA would be required to deny plans containing fuels not on the federally approved list. This provision would preempt state authority to implement their own clean fuel programs. CBO estimates that the costs associated with this preemption would be minimal.

In effect, section 108 also would require any refinery currently producing a fuel blend that is not on the federal fuels list to cease production of that fuel. Such a restriction would constitute a private-sector mandate as defined in UMRA. According to various industry contacts, most refineries are capable of changing their fuel blends with minimal, if any, retooling. Those sources also suggested that the new federal list would not require refineries to incur costs due to losses associated with the possibility of not using current blend stocks because all fuel blends contain similar additives but in different mixture ratios. Consequently, CBO estimates that the costs associated with any retooling necessary to comply with the provisions of this section would be minimal, if any.

Reporting Requirements for Gas Service Providers

Section 205 would require all gas service providers to submit to the Federal Energy Regulatory Commission (FERC) annual reports regarding the conditions of service for each shipper served. Currently, gas service providers are not required to issue such reports to FERC. Requiring gas service providers to generate and submit such reports to FERC would constitute a private-sector mandate as defined in UMRA. Since the information being requested is collected as a part of each business transaction, CBO estimates that the costs associated with generating and submitting such reports once a year would be small.

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