CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 12, 2012

H.R. 5961
Farmer's Privacy Act of 2012

As ordered reported by the House Committee on Transportation and Infrastructure on July 26, 2011

H.R. 5961 would prohibit the Environmental Protection Agency (EPA) from conducting aerial surveillance of agricultural land when enforcing the Clean Water Act (CWA) unless EPA receives voluntary written consent from the owner or operator of the land or obtains a certification of reasonable suspicion from a district court that a violation of the CWA is occurring. In addition, this bill would prohibit EPA from disclosing information collected through aerial surveillance unless that information is needed for purposes of an investigation or prosecution. Finally, the bill would exempt the information collected from the Freedom of Information Act and would require EPA to destroy the information collected within 30 days unless it is pertinent to an investigation or prosecution.

According to EPA, the use of aerial surveillance provides an efficient and cost-effective tool for investigating CWA issues, especially those related to animal feeding operations. Such over-flights generally cost between $1,000 and $2,500 per flight and allow several animal feeding operations to be inspected at one time.[1] The cost of on-site inspections, on the other hand, varies depending on the location, time in field, and time needed to analyze any samples taken during the inspection. On-site inspections at a livestock or poultry operation, for example, can cost as much as $10,000 or more per inspection, depending on the extent of the inspection required.

Because H.R. 5961 would preclude EPA from conducting aerial surveillance of farms, except under certain circumstances, the agency would rely more heavily on individual on-site inspections and other information-gathering tools, such as sending written requests for information to individual farmers, to identify activities that may affect water quality. We expect that the agency would need to conduct more than 60 on-site inspections per year if surveillance flights were precluded. As a result, CBO estimates

1. EPA's Region 7 office, which covers areas where many animal feeding operations exist (i.e., the states of Iowa, Kansas, Missouri, and Nebraska and nine tribal nations), has conducted 16 over-flights since 2010. Such flights usually involve inspections of multiple sites per flight. As a result of those flights, the EPA initiated more than 50 enforcement actions against animal feeding operations. The agency also notes that it has found that the vast majority of the operations they inspect comply with the Clean Water Act. EPA has no records of the number of aerial inspection flights conducted by other regional offices.

that enacting H.R. 5961 would increase spending by about $1 million annually over the next five years.

Pay-as-you-go procedures do not apply to H.R. 5961 because enacting the bill would not affect direct spending or revenues.

H.R. 5961 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susanne S. Mehlman. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.