To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to reduce or eliminate the risk of releases of hazardous chemicals from public water systems and wastewater treatment works, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 31, 2011

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act and the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to reduce or eliminate the risk of releases of hazardous chemicals from public water systems and wastewater treatment works, and for other purposes.

Be it enacted by the Senate and House of Representa-

atives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secure Water Facilities Act”.

“Secure Water Facilities Act”.
(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DRINKING WATER SYSTEM SECURITY

Sec. 101. Short title.
Sec. 102. Intentional acts affecting security of covered water systems.
Sec. 103. Study to assess threat of contamination of drinking water distribution systems.

TITLE II—WASTEWATER TREATMENT WORKS SECURITY

Sec. 201. Short title.
Sec. 202. Wastewater treatment works security.
Sec. 203. Study to assess threat of contamination of wastewater treatment works.

TITLE I—DRINKING WATER SYSTEM SECURITY

SEC. 101. SHORT TITLE.

This title may be cited as the “Secure Drinking Water Facilities Act”.

SEC. 102. INTENTIONAL ACTS AFFECTING SECURITY OF COVERED WATER SYSTEMS.

(a) Amendment.—

(1) In general.—Section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i–2) is amended to read as follows:

“SEC. 1433. INTENTIONAL ACTS AFFECTING SECURITY OF COVERED WATER SYSTEMS.

“(a) Definitions.—In this section:

“(1) Covered water system.—The term ‘covered water system’ means a public water system that—
“(A) is a community water system serving a population of more than 3,300 individuals; or
“(B) as determined by the Administrator, presents a security risk that requires regulation under this section.
“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.
“(b) REGULATIONS.—
“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Secure Water Facilities Act, the Administrator shall promulgate final regulations to establish—
“(A) risk-based performance standards for the security of covered water systems in accordance with subsection (c); and
“(B) requirements and deadlines for each covered water system—
“(i)(I) to conduct a vulnerability assessment in accordance with subsection (d) and submit the vulnerability assessment to the Administrator; or
“(II) if a vulnerability assessment has already been conducted relating to the covered water system—
“(aa) to revise the assessment in accordance with subsection (d); and

“(bb) to submit the revised assessment to the Administrator;

“(ii) to update and resubmit a vulnerability assessment relating to the covered water system—

“(I) not less frequently than once every 5 years; and

“(II) promptly after any change at the covered water system that could cause the reassignment of the covered water system to a different risk-based tier under subsection (h);

“(iii) to develop, implement, revise (as appropriate), and submit to the Administrator a site security plan in accordance with subsection (e)—

“(I) not less frequently than once every 5 years; and

“(II) promptly after any revision to the vulnerability assessment of the covered water system under clause (ii);
“(iv)(I)(aa) to develop an emergency response plan in accordance with subsection (f); or

“(bb) if an emergency response plan has already been developed for the covered water system, to revise the plan in accordance with subsection (f); and

“(II) to revise the plan not less frequently than once every 5 years; and

“(v) to provide annual training to employees and contractors of covered water systems regarding the implementation of site security plans and emergency response plans in accordance with subsection (g).

“(2) CONSULTATION.—In promulgating regulations pursuant to paragraph (1), the Administrator shall consult with—

“(A) States that exercise primary enforcement responsibility for public water systems; and

“(B) the Secretary and other appropriate individuals and entities regarding—

“(i) a process for the development and evaluation of vulnerability assessments,
site security plans, and emergency response plans;

“(ii) the development of risk-based performance standards under subsection (c);

“(iii) the establishment of risk-based tiers and a process for the assignment of covered water systems to the risk-based tiers under subsection (h);

“(iv) the designation of substances of concern under subsection (i);

“(v) the provision of threat-related and other baseline information to covered water systems under subsection (j);

“(vi) the treatment of protected information in accordance with subsection (o); and

“(vii) such other matters as the Administrator determines to be necessary.

“(c) RISK-BASED PERFORMANCE STANDARDS.—

“(1) IN GENERAL.—The risk-based performance standards for site security plans under this subsection shall be—

“(A) delineated by risk-based tier under subsection (h); and
“(B) increasingly stringent, based on the level of risk associated with each risk-based tier.

“(2) FACTOR FOR CONSIDERATION.—In developing standards under this subsection, the Administrator shall take into consideration section 27.230 of title 6, Code of Federal Regulations (or successor regulations).

“(d) VULNERABILITY ASSESSMENTS.—

“(1) IN GENERAL.—A vulnerability assessment under this subsection shall include an evaluation by each covered water system of the vulnerability of the covered water system to a range of intentional acts, including any intentional act that results in a release of a substance of concern that is known, or may be reasonably anticipated, to cause death, injury, or serious adverse effects to human health or the environment.

“(2) MINIMUM REQUIREMENTS.—At a minimum, a vulnerability assessment under this subsection shall include a review of, with respect to the relevant covered water system—

“(A) pipes and constructed conveyances;

“(B) physical barriers;
“(C) water collection, pretreatment, treatment, storage, and distribution facilities, including fire hydrants;

“(D) electronic, computer, and other automated systems that are used by the covered water system;

“(E) the use, storage, or handling of various chemicals, including substances of concern;

“(F) the operation and maintenance of the covered water system; and

“(G) the resiliency and ability of the covered water system to ensure continuity of operations in the event of a disruption caused by an intentional act.

“(e) SITE SECURITY PLANS.—In developing and implementing a site security plan under this section, a covered water system may select layered security and preparedness measures that, in combination, appropriately—

“(1) address the security risks identified in the vulnerability assessment of the covered water system; and

“(2) comply with the applicable risk-based performance standards required under this section.

“(f) EMERGENCY RESPONSE PLANS.—
“(1) IN GENERAL.—Each covered water system shall prepare or revise, as appropriate, an emergency response plan that incorporates the results of the most recent vulnerability assessment and site security plan of the covered water system.

“(2) CONTENTS.—An emergency response plan under this subsection shall include—

“(A) a description of the plans and procedures, and an identification of the equipment, that can be implemented or used in the event of an intentional act at the covered water system; and

“(B) a description of the actions and procedures, and an identification of the equipment, that can obviate or significantly lessen the impact on public health and the safety and supply of drinking water provided to communities and individuals of an intentional act at the covered water system.

“(3) COORDINATION.—

“(A) IN GENERAL.—As part of the emergency response plan of a covered water system, each covered water system shall provide to the individuals and entities described in subparagraph (B) appropriate information to ensure an
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effective collective response to an intentional act
at the covered water system.

“(B) Description of individuals and
entities.—An individual or entity referred to
in subparagraph (A) is—

“(i) a local emergency planning com-
mittee;
“(ii) a State emergency response com-
mision;
“(iii) a local law enforcement official;
or
“(iv) a local emergency response pro-
vider.

“(4) Certification.—

“(A) In general.—Not later than 180
days after the date on which a vulnerability as-
essment is completed or revised, as appro-
priate, for a covered water system under sub-
section (d), the covered water system shall sub-
mit to the Administrator a certification that the
covered water system has completed an emer-
gency response plan in accordance with this
subsection.

“(B) Updates.—As soon as practicable
after any update of an emergency response plan
of a covered water system under this section, a
covered water system shall submit to the Ad-
ministrator an updated certification under sub-
paragraph (A).
“(g) ROLE OF EMPLOYEES.—
“(1) DESCRIPTION OF ROLE.—Each site secu-

rity plan and emergency response plan required
under this section shall describe the appropriate
roles and responsibilities that employees and con-
tractors of the covered water system are expected to
perform to deter or respond to an intentional act de-
scribed in subsection (h)(2)(C).
“(2) TRAINING FOR EMPLOYEES.—Not less fre-
quently than once each year, each covered water sys-
tem shall provide to employees and contractors of
the covered water system with roles or responsibil-
ities described in paragraph (1) not less than 8
hours of training regarding the conduct of those
roles and responsibilities.
“(3) EMPLOYEE PARTICIPATION.—In de-
veloping, revising, or updating a vulnerability assess-
ment, site security plan, or emergency response plan
required under this section, a covered water system
shall include—
“(A) at least 1 supervisory and at least 1 nonsupervisory employee of the covered water system; and

“(B) at least 1 representative of each certified or recognized bargaining agent representing employees or contractors of the covered water system with roles or responsibilities described in paragraph (1), if any, in a collective bargaining relationship with the private or public owner or operator of the covered water system or a contractor to the covered water system.

“(h) Risk-Based Tiers.—

“(1) Establishment.—The Administrator shall establish, by regulation, 4 risk-based tiers for the categorization of covered water systems under this section, with tier 1 representing the highest degree of security risk.

“(2) Assignment.—

“(A) In general.—The Administrator shall assign (and reassign, as appropriate) each covered water system to 1 of the risk-based tiers established under paragraph (1).

“(B) Submission of information.—The Administrator may require a covered water sys-
tem to submit to the Administrator such information as the Administrator determines to be necessary to determine the appropriate risk-based tier for the covered water system.

“(C) FACTORS FOR CONSIDERATION.—In assigning a covered water system to a risk-based tier under this paragraph, the Administrator shall take into consideration—

“(i) the potential consequences (such as death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, and the national economy) of an intentional act at the covered water system—

“(I) to cause a release, including a worst-case release, of a substance of concern;

“(II)(aa) to introduce a contaminant into the drinking water supply; or

“(bb) to disrupt the safe and reliable supply of drinking water; and

“(III) to steal, misappropriate, or misuse a substance of concern;
“(ii) the size of the population served;

and

“(iii) the proximity of the water system to large population centers.

“(3) EXPLANATION FOR RISK-BASED TIER ASSIGNMENT.—The Administrator shall provide to each covered water system assigned to a risk-based tier under this subsection a written explanation of—

“(A) the reasons for the assignment to that risk-based tier; and

“(B) the determination by the Administrator regarding whether the covered water system is required to submit an assessment under subsection (k)(2).

“(i) SUBSTANCES OF CONCERN.—For purposes of this section, the Administrator, in consultation with the Secretary—

“(1) may designate any chemical substance as a substance of concern, taking into consideration appendix A of part 27 of title 6, Code of Federal Regulations (or successor regulations); and

“(2) on the designation of a chemical substance as a substance of concern under paragraph (1), shall establish, by regulation, a threshold quantity for the
release or theft of the chemical substance, taking into consideration—

“(A) the toxicity, reactivity, volatility, dispersability, combustibility, and flammability of the chemical substance; and

“(B) the quantity of the chemical substance that, as a result of a release, is known, or may be reasonably anticipated, to cause death, injury, or serious adverse effects to human health or the environment.

“(j) BASELINE INFORMATION.—To facilitate compliance with the requirements of this section, as soon as practicable after the effective date of the regulations promulgated pursuant to subsection (b), and thereafter as appropriate, the Administrator, after consultation with appropriate Federal departments and agencies and State, local, and tribal governments, shall provide baseline information to covered water systems regarding the types of intentional acts that constitute probable threats with respect to—

“(1) the substantial disruption of the ability of the covered water system to provide a safe and reliable supply of drinking water;

“(2) the release of a substance of concern at the covered water system; or
“(3) the theft, misuse, or misappropriation of a
substance of concern at the covered water system.

“(k) Methods To Reduce Consequences of
Chemical Releases From Intentional Acts.—

“(1) Definition of method to reduce the
consequences of a chemical release from an
intentional act.—

“(A) In general.—In this subsection, the
term ‘method to reduce the consequences of a
chemical release from an intentional act’ means
a measure at a covered water system that re-
duces or eliminates the potential consequences
of a release of a substance of concern from an
intentional act.

“(B) Inclusions.—The term ‘method to
reduce the consequences of a chemical release
from an intentional act’ includes—

“(i) the elimination or reduction in
quantity of a substance of concern pos-
sessed or planned to be possessed by a cov-
ered water system through the use of alter-
nate substances, formulations, or proc-
esses;
“(ii) the modification of the pressure, 
temperature, or concentration of a sub- 
stance of concern; and

“(iii) the reduction or elimination of 
onsite handling of a substance of concern 
through improvement of inventory control 
or chemical use efficiency.

“(2) ASSESSMENT.—

“(A) IN GENERAL.—Each covered water 
system that possesses or plans to possess a sub-
stance of concern in excess of the release 
threshold quantity established by the Adminis-
trator under subsection (i)(1)(B) shall—

“(i) include in the site security plan of 
the covered water system an assessment of 
methods to reduce the consequences of a 
chemical release from an intentional act at 
the covered water system; and

“(ii) submit the assessment under 
clause (i) to—

“(I) the Administrator; and

“(II) the State exercising pri-
mary enforcement responsibility for 
the covered water system, if any.
“(B) FACTORS FOR CONSIDERATION.—In preparing an assessment under this paragraph, a covered water system shall take into consideration factors appropriate to the security, public health, and environmental mission of the covered water system.

“(C) INCLUSIONS.—Each assessment under this paragraph shall include a description of—

“(i) the methods to reduce the consequences of a chemical release from an intentional act at the covered water system;

“(ii) the means by which each method to reduce the consequences of a chemical release from an intentional act at the covered water system could, if applied—

“(I) reduce the potential extent of death, injury, or serious adverse effects to human health resulting from the chemical release; and

“(II) affect the presence of contaminants in treated water, human health, or the environment;

“(iii) whether each described method to reduce the consequences of a chemical
release from an intentional act at the covered water system is feasible (as defined in section 1412(b)(4)(D)), not including consideration of the costs calculated under clause (iv);

“(iv) the costs (including capital and operational costs) and avoided costs (including savings and liabilities) associated with applying each method to reduce the consequences of a chemical release from an intentional act at the covered water system;

“(v) any other relevant information relied on by the covered water system in conducting the assessment;

“(vi) whether the covered water system has implemented or plans to implement 1 or more methods to reduce the consequences of a chemical release from an intentional act, a description of any such method; and

“(vii) in the case of a covered water system described in paragraph (3)(A), an explanation of the reasons for any decision not to implement a method to reduce the
consequences of a chemical release from an intentional act at the covered water system.

“(3) REQUIRED METHODS.—

“(A) APPLICABILITY.—This paragraph applies to a covered water system that—

“(i) is assigned to 1 of the 2 highest risk-based tiers under subsection (h); and

“(ii) possesses or plans to possess a substance of concern in excess of the release threshold quantity established by the Administrator under subsection (i)(1)(B).

“(B) HIGHEST-RISK SYSTEMS.—If, on the basis of an assessment under paragraph (2), a covered water system described in subparagraph (A) decides not to implement a method to reduce the consequences of a chemical release from an intentional act at the covered water system—

“(i) the State exercising primary enforcement responsibility for the covered water system (if the covered water system is located in such a State) shall, in accordance with a timeline established by the Administrator—
“(I) determine whether to require
the covered water system to imple-
ment the method to reduce the con-
sequences of a chemical release from
an intentional act; and
“(II) notify the Administrator of
the determination; or
“(ii) the Administrator (if the covered
water system is not located in a State that
exercises primary enforcement responsi-
bility for the covered water system) shall
determine whether to require the covered
water system to implement the method to
reduce the consequences of a chemical re-
lease from an intentional act.
“(C) FACTORS FOR CONSIDERATION.—Be-
fore making a determination to require imple-
mentation of a method to reduce consequences
of a chemical release from an intentional act
under clause (i)(I) or (ii) of subparagraph (B),
the State or the Administrator, as applicable,
shall take into consideration factors appropriate
to the security, public health, and environ-
mental missions of covered water systems, in-
cluding an examination of whether the applica-
ble method to reduce the consequences of a chemical release from an intentional act—

“(i) would significantly reduce the risk of death, injury, or serious adverse effects to human health resulting directly from a chemical release from an intentional act at the covered water system;

“(ii) would not increase the interim storage of a substance of concern by the covered water system;

“(iii) would not render the covered water system unable to comply with—

“(I) other requirements of this Act; or

“(II) drinking water standards established by the State or political subdivision in which the covered water system is located; and

“(iv) is feasible (as defined in section 1412(b)(4)(D)) to be incorporated into the operation of the covered water system.

“(D) APPEALS.—If a determination is made to require a covered water system to implement a method to reduce the consequences of a chemical release from an intentional act
under clause (i)(I) or (ii) of subparagraph (B),
the State or the Administrator, as applicable,
shall provide to the affected covered water sys-

stem an opportunity to appeal the determination,
including the opportunity for a determination of
consequences of an intentional act occurring
outside the covered water system pursuant to
subparagraph (E).

“(E) CONSEQUENCES OF AN INTENTIONAL
ACT OCCURRING OUTSIDE A COVERED WATER
SYSTEM.—

“(i) IN GENERAL.—A covered water
system may request, as part of an appeal
under subparagraph (D), a determination
of whether the implementation of a method
to reduce the consequences of a chemical
release from an intentional act would re-
sult in a significant increase in the existing
potential consequences of an intentional
act occurring outside the covered water
system that is directly related to the meth-
od to reduce consequences of an intentional
act at the covered water system that is the
subject of the appeal.
“(ii) DUTIES UPON RECEIPT OF REQUEST.—Upon receiving a request under clause (i)—

“(I) the State exercising primary enforcement responsibility for the covered water system (if the covered water system is located in such a State) shall notify the Administrator, and the Administrator shall consult with the Secretary, as necessary, to quantify whether there will be a significant increase in the existing potential consequences of an intentional act occurring outside the covered water system (that is directly related to the method to reduce consequences of an intentional act at the covered water system that is the subject of the appeal) as compared to the consequences of a chemical release at the covered water system that would be reduced by the implementation of the method; or

“(II) the Administrator (if the covered water system is not located in
a State exercising primary enforce-
ment responsibility for the covered
water system) shall consult with the
Secretary, as necessary, to quantify
whether there will be a significant in-
crease in the existing potential con-
sequences of an intentional act occur-
ing outside the covered water system
(that is directly related to the method
to reduce consequences of an inten-
tional act at the covered water system
that is the subject of the appeal) as
compared to the consequences of a
chemical release at the covered water
system that would be reduced by the
implementation of the method.

“(iii) Significantly increased
consequences outside covered water
system.—If a determination is made pur-
suant to subclause (I) or (II) of clause (ii)
that implementation of a method to reduce
consequences of a chemical release from an
intentional act pursuant to clause (i)(I) or
(ii) of subparagraph (B) would result in a
significant increase in the existing poten-
tial consequences of an intentional act occurring outside the covered water system as compared to the reduced consequences of a chemical release at the covered water system, the State exercising primary enforcement responsibility for the covered water system (if the covered water system is located in such a State), or the Administrator (if the covered water system is not located in a State exercising primary enforcement responsibility for the covered water system), shall take into consideration the determination made under this paragraph when making a final determination under clause (i)(I) or (ii) of subparagraph (B).

“(4) INCOMPLETE AND LATE ASSESSMENTS.—

“(A) INCOMPLETE ASSESSMENTS.—

“(i) IN GENERAL.—If the Administrator determines that a covered water system failed to meet the requirements of this subsection in conducting an assessment, the Administrator, after notifying the covered water system and the State exercising primary enforcement responsibility for the
covered water system, if any, shall require
the covered water system to submit a re-
vised assessment in accordance with this
subsection by not later than 60 days after
the date of receipt of notification.

“(ii) REVIEW.—The State exercising
primary enforcement responsibility for a
covered water system subject to clause (i)
(if the covered water system is located in
such a State) or the Administrator (if the
covered water system is not located in such
a State) shall review a revised assessment
submitted under clause (i) to determine
whether to require the covered water sys-
tem to implement any method to reduce
the consequences of an intentional act pur-
suant to paragraph (3).

“(B) LATE ASSESSMENTS.—If the Admin-
istrator determines that a covered water system
failed to complete an assessment under this
subsection in accordance with the deadline es-
established for completion by the Administrator,
the Administrator, after notifying the covered
water system and the State exercising primary
enforcement responsibility for the covered water
system, if any, may take appropriate enforce-
ment action under subsection (q).

“(5) FAILURES BY STATE TO ACT.—

“(A) DETERMINATIONS.—

“(i) IN GENERAL.—If the Adminis-
trator determines that a State exercising
primary enforcement responsibility for a
covered water system has failed to deter-
dine whether to require the covered water
system to implement a method to reduce
the consequences of a chemical release
from an intentional act, as required by
paragraph (3)(B)(i)(I), the Administrator
shall notify the State and the applicable
covered water system of the determination.

“(ii) ACTION BY ADMINISTRATOR.—If
a State has failed to make a determination
required by paragraph (3)(B)(i)(I) by the
date that is 30 days after the date of re-
ceipt of the notice of the Administrator
under clause (i), the Administrator shall—

“(I) notify the State and the ap-
plicable covered water system of the
failure by the State to make the de-
termination; and
“(II) determine whether to require the covered water system to implement the applicable method to reduce the consequences of a chemical release from an intentional act, based on the factors described in paragraph (3)(C).

“(B) ENFORCEMENT ACTIONS.—

“(i) In general.—If the Administrator determines that a covered water system, with respect to a period in which a State has primary enforcement responsibility for the system, has failed to implement a method to reduce the consequences of a chemical release from an intentional act that is required by the State or the Administrator under paragraph (3)(B), or by the Administrator under subparagraph (A), the Administrator shall notify the State and the covered water system of the determination.

“(ii) Enforcement actions.—If the Administrator determines that a State has failed to commence an appropriate enforcement action by the date that is 30 days
after the date of notification by the Administrator under clause (i), the Administrator shall—

“(I) notify the State and the applicable covered water system of the determination; and

“(II) determine whether to commence an appropriate enforcement action against the covered water system in accordance with subsection (q) to require the implementation of the relevant method to reduce the consequences of a chemical release from an intentional act at the covered water system.

“(C) CONSIDERATION OF CONTINUED PRIMARY ENFORCEMENT RESPONSIBILITY.—The Administrator may take into consideration the failure of a State with primary enforcement responsibility for a covered water system to make a determination as described in subparagraph (A), or to bring an enforcement action as described in subparagraph (B), in determining whether the State may retain primary enforce-
ment responsibility for the covered water sys-


tem under this Act.

“(6) GUIDANCE FOR COVERED WATER SYS-

TEMS.—

“(A) GUIDANCE.—Not later than 180 days

after the date of enactment of the Secure Water

Facilities Act, the Administrator shall develop,

and update thereafter as appropriate, non-

binding guidance, including guidance regarding

Federal procurement, to assist covered water

systems in assessing and implementing methods

to reduce consequences of a chemical release

from an intentional act by reducing or elimi-

nating reliance on the use of threshold quan-

tities of substances of concern at the covered

water systems, as established under subsection

(i)(1)(B).

“(B) RECOMMENDATIONS.—The Adminis-

trator shall, as appropriate, provide or rec-

ommend tools, methodologies, or computer soft-

ware to assist covered water systems assigned

to tier 3 or tier 4 under subsection (h) and re-

quired to conduct an assessment under para-

graph (2) to achieve compliance with the re-

quirements of this section.
“(1) REVIEW BY ADMINISTRATOR.—

“(1) IN GENERAL.—Each covered water system shall submit to the Administrator the vulnerability assessment and site security plan of the covered water system, in accordance with such deadline as the Administrator may establish.

“(2) REVIEW.—The Administrator shall—

“(A) review each vulnerability assessment and site security plan submitted under this subsection; and

“(B)(i) if the assessment or plan has any significant deficiency described in paragraph (3), require the covered water system to correct the deficiency; or

“(ii) approve the assessment or plan.

“(3) SIGNIFICANT DEFICIENCIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), a vulnerability assessment or site security plan of a covered water system has a significant deficiency under this paragraph if the Administrator, in consultation with the State exercising primary enforcement responsibility for the covered water system, if any, determines that—
“(i) the vulnerability assessment does not comply with the regulations promulgated pursuant to subsection (b); or

“(ii) the site security plan fails—

“(I) to meet applicable risk-based performance standards under subsection (c); or

“(II) to address a vulnerability identified in the vulnerability assessment under subsection (d).

“(B) Exclusion.—A deficiency in the content or implementation of the portion of the site security plan of a covered water system relating to methods to reduce the consequences of a chemical release from an intentional act shall not be considered to be a significant deficiency under this paragraph.

“(4) Identification of Deficiencies.—If the Administrator identifies a significant deficiency in the vulnerability assessment or site security plan of a covered water system under paragraph (3), the Administrator shall provide to the covered water system a written notification of the deficiency that—

“(A) includes a clear explanation of the deficiency;
“(B) provides guidance to assist the covered water system in addressing the deficiency; and

“(C) requires the covered water system—

“(i) to correct the deficiency; and

“(ii) by such date as the Administrator determines to be appropriate, to submit to the Administrator a revised vulnerability assessment or site security plan.

“(5) STATE, REGIONAL, AND LOCAL GOVERNMENTAL ENTITIES.—No covered water system shall be required under State, local, or tribal law to provide a vulnerability assessment or site security plan under this section to any State, regional, local, or tribal governmental entity solely due to the requirement of paragraph (1) to submit such an assessment or plan to the Administrator.

“(m) MAINTENANCE OF RECORDS.—Each covered water system shall maintain an updated copy of the vulnerability assessment, site security plan, and emergency response plan of the covered water system.

“(n) AUDITS; INSPECTIONS.—

“(1) IN GENERAL.—Notwithstanding section 1445(b)(2), the Administrator (or a designee) shall
audit and inspect covered water systems as necessary to determine compliance with this section.

“(2) Access.—In conducting an audit or inspection of a covered water system under this subsection, the Administrator shall have access to the owners, operators, employees, contractors, and employee representatives, if any, of the covered water system.

“(3) Confidential communication of information; aiding inspections.—

“(A) Confidential communication of information.—The Administrator shall offer nonsupervisory employees of a covered water system the opportunity to confidentially communicate to the Administrator information relevant to the compliance or noncompliance by the covered water system with the requirements of this section (including regulations promulgated pursuant to this section).

“(B) Aiding inspections.—A representative of each certified or recognized bargaining agent described in subsection (g)(3)(B), or a nonsupervisory employee if no such representative exists, shall be given an opportunity to accompany the Administrator during any physical
inspection of a covered water system under this subsection to assist in the inspection, if a representative of the covered water system will also be accompanying the Administrator during the inspection.

"(o) PROTECTION OF INFORMATION.—

"(1) DEFINITION OF PROTECTED INFORMATION.—

"(A) In general.—In this section, the term ‘protected information’ means—

"(i) a vulnerability assessment or site security plan under this section (including any assessment developed under subsection (k)(2));

"(ii) any document directly relating to a review by the Administrator of an assessment or plan described in clause (i), and, where applicable, review by a State of an assessment developed under subsection (k)(2);

"(iii) any document directly relating to an inspection or audit under subsection (n);

"(iv) any order, notice, or letter regarding the compliance of a covered water
system with the requirements of this section;

“(v) any information, document, or record required to be provided to, or created by, the Administrator under subsection (h);

“(vi) any document directly related to—

“(I) a security drill or training exercise;

“(II) a security threat or breach;

or

“(III) maintenance, calibration, or testing of security equipment; and

“(vii) any other information, document, or record developed exclusively for purposes of this section, the disclosure of which, as determined by the Administrator, by regulation, would be detrimental to the security of 1 or more covered water systems.

“(B) DETRIMENT REQUIREMENT.—For purposes of clauses (ii) through (vi) of subparagraph (A), the only portion of any document, record, order, notice, or letter that shall be con-
sidered to be protected information is any por-

tion—

“(i) the disclosure of which, as deter-

dined by the Administrator, by regulation,

would be detrimental to the security of 1

or more covered water systems; and

“(ii) that is developed by the Adminis-

trator, a State, or a covered water system

for purposes of this section.

“(C) EXCLUSIONS.—The term ‘protected

information’ does not include—

“(i) any information, other than a vul-

nerability assessment or site security plan,

that the Administrator has determined, by

regulation—

“(I) to be appropriate to dem-

onstrate compliance by a covered

water system with the requirements of

this section; and

“(II) would not be detrimental to

the security of any covered water sys-

tem if disclosed; or

“(ii) any information that is obtained

from another source with respect to which

the Administrator has not made a deter-
mination under subparagraph (A)(vii) or (B), regardless of whether the information is included in an assessment or plan under this section, including—

“(I) information that is required to be made publicly available under any other provision of law; and

“(II) information that a covered water system has lawfully disclosed other than through a submission to the Administrator under this section.

“(2) PROHIBITION.—Protected information—

“(A) shall be exempt from disclosure under section 552 of title 5, United States Code; and

“(B) shall not be made available pursuant to any State, local, or tribal law requiring disclosure of information or records.

“(3) INFORMATION SHARING.—

“(A) IN GENERAL.—The Administrator shall promulgate such regulations, and may issue such orders, as the Administrator determines to be necessary to prohibit the unauthorized disclosure of protected information.

“(B) SHARING OF PROTECTED INFORMATION.—
“(i) IN GENERAL.—The regulations under subparagraph (A) shall establish standards for, and facilitate, the appropriate sharing of protected information among—

“(I) Federal, State, local, and tribal authorities;

“(II) first responders;

“(III) law enforcement officials;

“(IV) designated supervisory and nonsupervisory covered water system personnel with security, operational, or fiduciary responsibility for the covered water system; and

“(V) designated employee representatives of covered water systems, if any.

“(ii) INCLUSIONS.—The standards established under clause (i) shall include procedures for the sharing of all portions of a vulnerability assessment or site security plan of a covered water system relating to the roles and responsibilities of employees or contractors of the covered water system under subsection (g) with—
“(I) a representative of each certified or recognized bargaining agent representing those employees and contractors, if any; or

“(II) if a representative described in subclause (I) does not exist, at least 1 supervisory and at least 1 non-supervisory employee with roles and responsibilities described in subsection (g).

“(C) PENALTIES.—

“(i) IN GENERAL.—Protected information shall not be shared, except in accordance with the standards established and orders issued pursuant to subparagraph (A).

“(ii) KNOWING VIOLATION.—Whoever discloses protected information in knowing violation of the regulations promulgated under paragraph (1) shall—

“(I) be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and
“(II) in the case of a Federal officeholder or employee, removed from Federal office or employment.

“(4) Treatment of information in adjudicative proceedings.—In any judicial or administrative proceeding, protected information shall be treated in a manner consistent with the treatment of sensitive security information under section 525 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1381).

“(5) Other obligations unaffected.—Except as provided in subsection (l)(5), nothing in this section modifies or otherwise affects an obligation of a covered water system—

“(A) to submit or make available information to employees of the covered water system, employee organizations, health professionals, emergency response organizations, or a Federal, State, tribal, or local government agency under any other provision of law; or

“(B) to comply with any other provision of law.
“(6) CONGRESSIONAL OVERSIGHT.—Nothing in this section authorizes the withholding of information from Congress.

“(7) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this section modifies or otherwise affects any authority or obligation of a Federal, State, local, or tribal agency to protect or disclose any record or information that the Federal, State, local, or tribal agency obtains from a covered water system or the Administrator under any other provision of law.

“(p) PREEMPTION.—Nothing in this section precludes or denies the right of any State or political subdivision of a State to adopt or enforce any regulation, requirement, or standard of performance with respect to a covered water system that is more stringent than a regulation, requirement, or standard of performance established under this section.

“(q) VIOLATIONS.—

“(1) IN GENERAL.—A covered water system that violates any requirement of this section (including by failing to implement all or part of an applicable site security plan by such date as the Administrator may require) shall be liable for a civil penalty
in an amount equal to not more than $25,000 for each day of the violation.

“(2) Procedure.—On a determination by the Administrator that a covered water system is subject to a civil penalty under paragraph (1), the Administrator, after consultation with the State for a covered water system located in a State exercising primary responsibility for the covered water system, and after taking into consideration the severity of the violation or deficiency and the record of the covered water system in carrying out the requirements of this section, may—

“(A) after providing notice and an opportunity for the covered water system to be heard, issue an order—

“(i) assessing a penalty under paragraph (1) for any past or current violation; and

“(ii) requiring compliance immediately or within a specified time period; or

“(B) commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including temporary or permanent injunction.
“(3) Methods to reduce consequences of chemical releases from intentional acts.—
Except as provided in paragraphs (4) and (5) of subsection (k), if a covered water system is located in a State exercising primary enforcement responsibility for the covered water system, the Administrator may not issue an order or commence a civil action under this section for any deficiency in the content or implementation of the portion of the site security plan of the covered water system relating to methods to reduce the consequences of a chemical release from an intentional act (as defined in subsection (k)(1)).

“(r) Reports to Congress.—

“(1) Annual report.—Not later than 3 years after the effective date of the regulations promulgated pursuant to subsection (b), and annually thereafter for each of the following 8 calendar years, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the progress made during the reporting period in achieving compliance with this section, including, at a minimum—
“(A) a generalized summary of measures implemented by covered water systems to meet each risk-based performance standard established under subsection (c); and

“(B) a summary of the means by which—

“(i) covered water systems, as categorized by risk-based tier assignment under subsection (h), are achieving compliance with the requirements of this section; and

“(ii) the Administrator is implementing and enforcing those requirements, including a description of—

“(I) the number of public water systems that provided information to the Administrator pursuant to subsection (h)(2)(B);

“(II) the number of covered water systems assigned to each risk-based tier under subsection (h);

“(III) the number of vulnerability assessments and site security plans—

“(aa) submitted by covered water systems; and
“(bb) approved and dis-approved by the Administrator;
“(IV) the number of covered water systems without approved vulnerability assessments or site security plans in place;
“(V)(aa) the number of covered water systems that have been assigned to a different risk-based tier or are no longer regulated by the Administrator under this section due to implementation of a method to reduce the consequences of a chemical release from an intentional act; and
“(bb) a description of the types of each such method to reduce the consequences of a chemical release from an intentional act;
“(VI) the number of audits and inspections conducted by the Administrator (or a designee) under subsection (n);
“(VII) the number of orders for compliance issued by the Administrator under subsection (q);
“(VIII) the administrative penalties assessed by the Administrator for noncompliance with the requirements of this section;

“(IX) the civil penalties assessed by courts for noncompliance with the requirements of this section; and

“(X) any other regulatory data the Administrator determines to be appropriate to describe—

“(aa) compliance by covered water systems with the requirements of this section; and

“(bb) the implementation by the Administrator of those requirements.

“(2) Public Availability.—Each report submitted under this section shall be made publicly available.

“(s) Grant Programs.—

“(1) Implementation Grants to States.—

The Administrator may provide grants to, or enter into cooperative agreements with, States, based on an allocation formula established by the Adminis-
trator, to assist the States in implementing this sec-

“(2) Research, Training, and Technical
assistance grants.—The Administrator may pro-
vide grants to, or enter into cooperative agreements
with, nonprofit organizations to provide research,
training, and technical assistance to covered water
systems to assist the covered water systems in
achieving compliance with this section.

“(3) Preparation grants.—

“(A) Grants.—The Administrator may
provide grants to, or enter into cooperative
agreements with, covered water systems to as-
sist the covered water systems in—

“(i) preparing and updating vulner-
ability assessments, site security plans, and
emergency response plans;

“(ii) assessing and implementing
methods to reduce the consequences of a
release of a substance of concern from an
intentional act; and

“(iii) implementing any other security
reviews or enhancements that are nec-
essary to achieve compliance with this sec-
tion.
“(B) Priority.—

“(i) Need.—In providing grants and entering into cooperative agreements under subparagraph (A)(i), the Administrator shall give priority to covered water systems that, as determined by the Administrator, have the greatest need.

“(ii) Security risk.—In providing grants and entering into cooperative agreements under subparagraph (A)(ii), the Administrator shall give priority to covered water systems that, as determined by the Administrator, present the greatest security risk.

“(4) Worker Training Grants.—

“(A) Definition of Eligible Entity.—In this paragraph, the term ‘eligible entity’ means a nonprofit organization with demonstrated experience in implementing and operating successful worker or first responder health and safety or security training programs.

“(B) Grants.—The Administrator shall establish a program under which the Administrator shall provide grants to eligible entities to provide for training and education of—
“(i) employees and contractors of covered water systems with roles or responsibilities described in subsection (g); and

“(ii) first responders and emergency response providers who would respond to an intentional act at a covered water system.

“(C) ADMINISTRATION.—The Administrator shall offer to enter into an agreement with the National Institute of Environmental Health Sciences to administer the program under this paragraph.

“(D) USE OF FUNDS.—An eligible entity shall use a grant received under this paragraph for—

“(i) training and education of employees and contractors with roles or responsibilities described in subsection (g), including the annual mandatory training specified in subsection (g)(2), with priority given to covered water systems assigned to tier 1 or tier 2 under subsection (h);

“(ii) training of first responders in protecting nearby residents and property or the environment from the effects of a
release of a substance of concern at a covered water system, with priority given to covered water systems assigned to tier 1 or tier 2 under subsection (h); and

“(iii) appropriate training for first responders and emergency response providers who would respond to an intentional act at a covered water system.

“(t) TIMELY PROVISION OF THREAT-RELATED INFORMATION.—The Secretary shall, upon receipt of information concerning a specific threat that is relevant to a certain covered water system, provide the information in a timely manner, to the maximum extent practicable under applicable authority and in the interests of national security, to—

“(1) the covered water system;

“(2) the Administrator; and

“(3) appropriate Federal, State, and local law enforcement officials.

“(u) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $340,000,000 for each of fiscal years 2012 through 2016, of which—
“(A) not more than $30,000,000 may be used during each fiscal year for administrative costs incurred by the Administrator or States, as applicable, in carrying out this section; and

“(B) not more than $225,000,000 may be used during each fiscal year to implement methods to reduce the consequences of chemical releases from intentional acts at covered water systems, with priority given to covered water systems assigned to tier 1 or tier 2 under subsection (h).

“(2) SECURITY ENHANCEMENTS.—Amounts provided under this subsection for basic security enhancements shall not be used for—

“(A) personnel costs; or

“(B) monitoring, operation, or maintenance of facilities, equipment, or systems.

“(v) RELATION TO CHEMICAL FACILITY SECURITY REQUIREMENTS.—No provision of any appropriations Act relating to chemical facility security, and no law or regulation establishing a chemical facility antiterrorism standard, shall apply to a covered water system under this section.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on the date of promul-
igation by the Administrator of the Environmental Protection Agency of final regulations pursuant to subsection (b)(1) of section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i–2) (as amended by paragraph (1)).

(b) Effect of Section.—

(1) In General.—Nothing in this section or the amendment made by this section affects the applicability of section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i–2) (as in effect before the effective date of the amendment made by subsection (a)(1)) to any violation of that section that occurs before that effective date.

(2) Violations.—The requirements of section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i–2) (as in effect before the effective date of the amendment made by subsection (a)(1)) shall remain in effect with respect to violations described in paragraph (1) until the later of—

(A) the date on which the violation is corrected; and

(B) the date on which enforcement proceedings relating to the violation are completed.
SEC. 103. STUDY TO ASSESS THREAT OF CONTAMINATION OF DRINKING WATER DISTRIBUTION SYSTEMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Homeland Security, shall—

(1) conduct a study to assess—

(A) the threat to drinking water posed by intentional acts of contamination; and

(B) the vulnerability of public water systems, including fire hydrants, to such a threat; and

(2) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study.

TITLE II—WASTEWATER TREATMENT WORKS SECURITY

SEC. 201. SHORT TITLE.

This title may be cited as Secure Wastewater Treatment Facilities Act.

SEC. 202. WASTEWATER TREATMENT WORKS SECURITY.

(a) AMENDMENT.—
(1) IN GENERAL.—Title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) is amended by adding at the end the following:

“SEC. 321. WASTEWATER TREATMENT WORKS SECURITY.

“(a) DEFINITIONS.—In this section:

“(1) COVERED TREATMENT WORKS.—The term ‘covered treatment works’ means a treatment works that—

“(A) has a treatment capacity of not less than 2,500,000 gallons per day; or

“(B) as determined by the Administrator, presents a security risk that requires regulation under this section.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

“(b) REGULATIONS.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Secure Water Facilities Act, the Administrator shall promulgate final regulations to establish—

“(A) risk-based performance standards for the security of covered treatment works in accordance with subsection (c); and

“(B) requirements and deadlines for each covered treatment works—
“(i)(I) to conduct a vulnerability assessment in accordance with subsection (d) and submit the vulnerability assessment to the Administrator; or

“(II) if a vulnerability assessment has already been conducted relating to the covered treatment works—

“(aa) to revise the assessment in accordance with subsection (d); and

“(bb) to submit the revised assessment to the Administrator;

“(ii) to update and resubmit a vulnerability assessment relating to the covered treatment works—

“(I) not less frequently than once every 5 years; and

“(II) promptly after any change at the covered treatment works that could cause the reassignment of the covered treatment works to a different risk-based tier under subsection (h);

“(iii) to develop, implement, revise (as appropriate), and submit to the Administrator a site security plan in accordance with subsection (e)—
“(I) not less frequently than once every 5 years; and

“(II) promptly after any revision to the vulnerability assessment of the covered treatment works under clause (ii);

“(iv)(I)(aa) to develop an emergency response plan in accordance with subsection (f); or

“(bb) if an emergency response plan has already been developed for the covered treatment works, to revise the plan in accordance with subsection (f); and

“(II) to revise the plan not less frequently than once every 5 years; and

“(v) to provide annual training to employees and contractors of covered treatment works regarding the implementation of site security plans and emergency response plans in accordance with subsection (g).

“(2) CONSULTATION.—In promulgating regulations pursuant to paragraph (1), the Administrator shall consult with—
“(A) States with approved programs under section 402; and

“(B) the Secretary and other appropriate individuals and entities regarding—

“(i) a process for the development and evaluation of vulnerability assessments, site security plans, and emergency response plans;

“(ii) the development of risk-based performance standards under subsection (c);

“(iii) the establishment of risk-based tiers and a process for the assignment of covered treatment works to the risk-based tiers under subsection (h);

“(iv) the designation of substances of concern under subsection (i);

“(v) the provision of threat-related and other baseline information to covered treatment works under subsection (j);

“(vi) the treatment of protected information in accordance with subsection (o); and

“(vii) such other matters as the Administrator determines to be necessary.
“(c) Risk-Based Performance Standards.—

“(1) In general.—The risk-based performance standards for site security plans under this subsection shall be—

“(A) delineated by risk-based tier under subsection (h); and

“(B) increasingly stringent, based on the level of risk associated with each risk-based tier.

“(2) Factor for consideration.—In developing standards under this subsection, the Administrator shall take into consideration section 27.230 of title 6, Code of Federal Regulations (or successor regulations).

“(d) Vulnerability Assessments.—

“(1) In general.—A vulnerability assessment under this subsection shall include an evaluation by each covered treatment works of the vulnerability of the covered treatment works to a range of intentional acts, including any intentional act that results in a release of a substance of concern that is known, or may be reasonably anticipated, to cause death, injury, or serious adverse effects to human health or the environment.
“(2) MINIMUM REQUIREMENTS.—At a minimum, a vulnerability assessment under this subsection shall include a review of, with respect to the relevant covered treatment works—

“(A) intercepting sewers, outfall sewers, sewage collection systems, and other constructed conveyances under the control of the treatment works;

“(B) physical barriers;

“(C) facilities, systems, and devices used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial wastes;

“(D) electronic, computer, and other automated systems that are used by the covered treatment works;

“(E) the use, storage, or handling of various chemicals, including substances of concern;

“(F) the operation and maintenance of the covered treatment works; and

“(G) the resiliency and ability of the covered treatment works to ensure continuity of operations in the event of a disruption caused by an intentional act.

“(e) SITE SECURITY PLANS.—In developing and implementing a site security plan under this section, a cov-
erred treatment works may select layered security and preparedness measures that, in combination, appropriately—

“(1) address the security risks identified in the vulnerability assessment of the covered treatment works; and

“(2) comply with the applicable risk-based performance standards required under this section.

“(f) EMERGENCY RESPONSE PLANS.—

“(1) IN GENERAL.—Each covered treatment works shall prepare or revise, as appropriate, an emergency response plan that incorporates the results of the most recent vulnerability assessment and site security plan of the covered treatment works.

“(2) CONTENTS.—An emergency response plan under this subsection shall include—

“(A) a description of the plans and procedures, and an identification of the equipment, that can be implemented or used in the event of an intentional act at the covered treatment works; and

“(B) a description of the actions and procedures, and an identification of the equipment, that can obviate or significantly lessen the impact on public health, and the ability of the treatment works to safely and reliably operate
on the occurrence, of an intentional act at the
covered treatment works.

“(3) COORDINATION.—

“(A) IN GENERAL.—As part of the emer-
gency response plan of a covered treatment
works, each covered treatment works shall pro-
vide to the individuals and entities described in
subparagraph (B) appropriate information to
ensure an effective collective response to an in-
tentional act at the covered treatment works.

“(B) DESCRIPTION OF INDIVIDUALS AND
ENTITIES.—An individual or entity referred to
in subparagraph (A) is—

“(i) a local emergency planning com-
mittee;

“(ii) a State emergency response com-
mission;

“(iii) a local law enforcement official;
or

“(iv) a local emergency response pro-
vider.

“(4) CERTIFICATION.—

“(A) IN GENERAL.—Not later than 180
days after the date on which a vulnerability as-
ssessment is completed or revised, as appro-
priate, for a covered treatment works under subsection (d), the covered treatment works shall submit to the Administrator a certification that the covered treatment works has completed an emergency response plan in accordance with this subsection.

“(B) Updates.—As soon as practicable after any update of an emergency response plan of a covered treatment works under this section, a covered treatment works shall submit to the Administrator an updated certification under subparagraph (A).

“(g) Role of Employees.—

“(1) Description of role.—Each site security plan and emergency response plan required under this section shall describe the appropriate roles and responsibilities that employees and contractors of the covered treatment works are expected to perform to deter or respond to an intentional act described in subsection (h)(2)(C).

“(2) Training for employees.—Not less frequently than once each year, each covered treatment works shall provide to employees and contractors of the covered treatment works with roles or responsibilities described in paragraph (1) not less than 8
hours of training regarding the conduct of those
roles and responsibilities.

“(3) Employee Participation.—In develop-
oping, revising, or updating a vulnerability assess-
ment, site security plan, or emergency response plan
required under this section, a covered treatment
works shall include—

“(A) at least 1 supervisory and at least 1
nonsupervisory employee of the covered treat-
ment works; and

“(B) at least 1 representative of each cer-
tified or recognized bargaining agent rep-
resenting employees or contractors of the cov-
ered treatment works with roles or responsibil-
ities described in paragraph (1), if any, in a col-
lective bargaining relationship with the owner
or operator of the covered treatment works or
a contractor to the covered treatment works.

“(h) Risk-Based Tiers.—

“(1) Establishment.—The Administrator
shall establish, by regulation, 4 risk-based tiers for
the categorization of covered treatment works under
this section, with tier 1 representing the highest de-
gree of security risk.

“(2) Assignment.—
“(A) IN GENERAL.—The Administrator shall assign (and reassign, as appropriate) each covered treatment works to 1 of the risk-based tiers established under paragraph (1).

“(B) SUBMISSION OF INFORMATION.—The Administrator may require a covered treatment works to submit to the Administrator such information as the Administrator determines to be necessary to determine the appropriate risk-based tier for the covered treatment works.

“(C) FACTORS FOR CONSIDERATION.—In assigning a covered treatment works to a risk-based tier under this paragraph, the Administrator shall take into consideration—

“(i) the potential consequences (such as death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, and the national economy) of an intentional act at the covered treatment works—

“(I) to cause a release, including a worst-case release, of a substance of concern;
“(II) to disrupt the safe and reliable operation of the covered treatment works; and

“(III) to steal, misappropriate, or misuse a substance of concern at the covered treatment works;

“(ii) the design flow of the treatment works; and

“(iii) the proximity of the treatment works to large population centers.

“(3) EXPLANATION FOR RISK-BASED TIER ASSIGNMENT.—The Administrator shall provide to each covered treatment works assigned to a risk-based tier under this subsection a written explanation of—

“(A) the reasons for the assignment to that risk-based tier; and

“(B) the determination by the Administrator regarding whether the covered treatment works is required to submit an assessment under subsection (k)(2).

“(i) SUBSTANCES OF CONCERN.—For purposes of this section, the Administrator, in consultation with the Secretary—
“(1) may designate any chemical substance as a substance of concern, taking into consideration appendix A of part 27 of title 6, Code of Federal Regulations (or successor regulations); and

“(2) on the designation of a chemical substance as a substance of concern under paragraph (1), shall establish, by regulation, a threshold quantity for the release or theft of the chemical substance, taking into consideration—

“(A) the toxicity, reactivity, volatility, dispersability, combustibility, and flammability of the chemical substance; and

“(B) the quantity of the chemical substance that, as a result of a release, is known, or may be reasonably anticipated, to cause death, injury, or serious adverse effects to human health or the environment.

“(j) BASELINE INFORMATION.—To facilitate compliance with the requirements of this section, as soon as practicable after the effective date of the regulations promulgated pursuant to subsection (b), and thereafter as appropriate, the Administrator, after consultation with appropriate Federal departments and agencies and State, local, and tribal governments, shall provide baseline information to covered treatment works regarding the types of
intentional acts that constitute probable threats with re-
spect to—

“(1) the substantial disruption of the ability of the covered treatment works to operate safely and reliably;

“(2) the release of a substance of concern at the covered treatment works; or

“(3) the theft, misuse, or misappropriation of a substance of concern at the covered treatment works.

“(k) METHODS TO REDUCE CONSEQUENCES OF CHEMICAL RELEASES FROM INTENTIONAL ACTS.—

“(1) DEFINITION OF METHOD TO REDUCE THE CONSEQUENCES OF A CHEMICAL RELEASE FROM AN INTENTIONAL ACT.—

“(A) IN GENERAL.—In this subsection, the term ‘method to reduce the consequences of a chemical release from an intentional act’ means a measure at a covered treatment works that reduces or eliminates the potential consequences of a release of a substance of concern from an intentional act.

“(B) INCLUSIONS.—The term ‘method to reduce the consequences of a chemical release from an intentional act’ includes—
“(i) the elimination or reduction in quantity of a substance of concern possessed or planned to be possessed by a covered treatment works through the use of alternate substances, formulations, or processes;

“(ii) the modification of the pressure, temperature, or concentration of a substance of concern; and

“(iii) the reduction or elimination of onsite handling of a substance of concern through improvement of inventory control or chemical use efficiency.

“(2) ASSESSMENT.—

“(A) IN GENERAL.—Each covered treatment works that possesses or plans to possess a substance of concern in excess of the release threshold quantity established by the Administrator under subsection (i)(1)(B) shall—

“(i) include in the site security plan of the covered treatment works an assessment of methods to reduce the consequences of a chemical release from an intentional act at the covered treatment works; and
“(ii) submit the assessment under clause (i) to—

“(I) the Administrator; and

“(II) the State in which the covered treatment works is located, if the State has an approved program under section 402.

“(B) FACTORS FOR CONSIDERATION.—In preparing an assessment under this paragraph, a covered treatment works shall take into consideration factors appropriate to the security, public health, and environmental mission of the covered treatment works.

“(C) INCLUSIONS.—Each assessment under this paragraph shall include a description of—

“(i) the methods to reduce the consequences of a chemical release from an intentional act at the covered treatment works;

“(ii) the means by which each method to reduce the consequences of a chemical release from an intentional act at the covered treatment works could, if applied—
“(I) reduce the potential extent of death, injury, or serious adverse effects to human health resulting from the chemical release; and

“(II) affect the presence of contaminants in treated water, human health, or the environment;

“(iii) whether each described method to reduce the consequences of a chemical release from an intentional act at the covered treatment works is feasible (as determined by the Administrator);

“(iv) the costs (including capital and operational costs) and avoided costs (including savings and liabilities) associated with applying each method to reduce the consequences of a chemical release from an intentional act at the covered treatment works;

“(v) any other relevant information relied on by the covered treatment works in conducting the assessment;

“(vi) a statement of whether the covered water system has implemented or plans to implement 1 or more methods to
reduce the consequences of a chemical release from an intentional act, a description of any such method; and

“(vii) in the case of a covered treatment works described in paragraph (3)(A), an explanation of the reasons for any decision not to implement a method to reduce the consequences of a chemical release from an intentional act at the covered treatment works.

“(3) REQUIRED METHODS.—

“(A) APPLICABILITY.—This paragraph applies to a covered treatment works that—

“(i) is assigned to 1 of the 2 highest risk-based tiers under subsection (h); and

“(ii) possesses or plans to possess a substance of concern in excess of the release threshold quantity established by the Administrator under subsection (i)(1)(B).

“(B) HIGHEST-RISK SYSTEMS.—If, on the basis of an assessment under paragraph (2), a covered treatment works described in subparagraph (A) decides not to implement a method to reduce the consequences of a chemical re-
lease from an intentional act at the covered treatment works—

“(i) the State with an approved program under section 402 (if the covered treatment works is located in such a State) shall, in accordance with a timeline established by the Administrator—

“(I) determine whether to require the covered treatment works to implement the method to reduce the consequences of a chemical release from an intentional act; and

“(II) notify the Administrator of the determination; or

“(ii) the Administrator (if the covered treatment works is not located in a State with an approved program under section 402) shall determine whether to require the covered treatment works to implement the method to reduce the consequences of a chemical release from an intentional act.

“(C) FACTORS FOR CONSIDERATION.—In making a determination under clause (i)(I) or (ii) of subparagraph (B), the State or the Administrator, as applicable, shall take into con-
sideration factors appropriate to the security,
public health, and environmental missions of
covered treatment works, including an examina-
tion of whether the applicable method to reduce
the consequences of a chemical release from an
intentional act—

“(i) would significantly reduce the
risk of death, injury, or serious adverse ef-
fects to human health resulting directly
from a chemical release from an inten-
tional act at the covered treatment works;

“(ii) would not increase the interim
storage of a substance of concern by the
covered treatment works;

“(iii) would not render the covered
treatment works unable to comply with—

“(I) other requirements of this
Act; or

“(II) applicable standards estab-
lished by the State or political subdivi-
sion in which the covered treatment
works is located; and

“(iv) is feasible (as determined by the
Administrator), to be incorporated into the
operation of the covered treatment works.
“(D) **APPEALS.**—If a determination is made to require a covered treatment works to implement a method to reduce the consequences of a chemical release from an intentional act under clause (i)(I) or (ii) of subparagraph (B), the State or the Administrator, as applicable, shall provide to the affected covered treatment works an opportunity to appeal the determination, including the opportunity for a determination of consequences of an intentional act occurring outside the covered treatment works pursuant to subparagraph (E).

“(E) **CONSEQUENCES OF INTENTIONAL ACT OCCURRING OUTSIDE COVERED TREATMENT WORKS.**—

“(i) **IN GENERAL.**—A covered treatment works may request, as part of an appeal under subparagraph (D), a determination of whether the implementation of a method to reduce the consequences of a chemical release from an intentional act would result in a significant increase in the existing potential consequences of an intentional act occurring outside the covered treatment works that is directly related to
the method to reduce consequences of an intentional act at the covered treatment works that is the subject of the appeal.

“(ii) Duties upon receipt of request.—Upon receiving a request under clause (i)—

“(I) the State with an approved program under section 402 (if the covered treatment works is located in such a State), shall notify the Administrator, and the Administrator shall consult with the Secretary, as necessary, to quantify whether there would be a significant increase in the existing potential consequences of an intentional act occurring outside the covered treatment works (that is directly related to the method to reduce consequences of an intentional act at the covered treatment works that is the subject of the appeal) as compared to the consequences of a chemical release at the covered treatment works that would be reduced by the implementation of the method; or
“(II) the Administrator (if the covered treatment works is not located in a State with an approved program under section 402), shall consult with the Secretary, as necessary, to quantify whether there would be a significant increase in the existing potential consequences of an intentional act occurring outside the covered treatment works (that is directly related to the method to reduce consequences of an intentional act at the covered treatment works that is the subject of the appeal) as compared to the consequences of a chemical release at the covered treatment works that would be reduced by the implementation of the method.

“(iii) Significantly Increased Consequences Outside Covered Treatment Works.—If a determination is made pursuant to subclause (I) or (II) of clause (ii) that implementation of a method to reduce consequences of a chemical release from an intentional act pursuant to clause
(i)(I) or (ii) of subparagraph (B) would result in a significant increase in the existing potential consequences of an intentional act occurring outside the covered treatment works as compared to the reduced consequences of a chemical release at the covered treatment works, the State with an approved program under section 402 (if the covered treatment works is located in such a State), or the Administrator (if the covered treatment works is not located in a State), shall take that determination into consideration in making a final determination under clause (i)(I) or (ii) of subparagraph (B).

“(4) Incomplete and late assessments.—

“(A) Incomplete assessments.—

“(i) In general.—If the Administrator determines that a covered treatment works failed to meet the requirements of this subsection in conducting an assessment, the Administrator, after notifying the covered treatment works and the State with an approved program under section 402, if applicable, shall require the covered
treatment works to submit a revised assessment in accordance with this subsection by not later than 60 days after the date of receipt of notification.

“(ii) REVIEW.—The State in which a covered treatment works subject to clause (i) is located (if the covered treatment works is located in a State with an approved program under section 402) or the Administrator (if the covered treatment works is not located in such a State) shall review a revised assessment submitted under clause (i) to determine whether to require the covered treatment works to implement any method to reduce the consequences of an intentional act pursuant to paragraph (3).

“(B) LATE ASSESSMENTS.—If the Administrator determines that a covered treatment works failed to complete an assessment under this subsection in accordance with the deadline established for completion by the Administrator, the Administrator, after notifying the covered treatment works and the State with an approved program under section 402, if applica-
ble, may take appropriate enforcement action under subsection (q).

“(5) FAILURE BY STATE TO ACT.—

“(A) DETERMINATIONS.—

“(i) IN GENERAL.—If the Administrator determines that a State with an approved program under section 402 has failed to determine whether to require a covered treatment works to implement a method to reduce the consequences of a chemical release from an intentional act, as required by paragraph (3)(B)(i)(I), the Administrator shall notify the State and the applicable covered treatment works of the determination.

“(ii) ACTION BY ADMINISTRATOR.—If a State has failed to make a determination required by paragraph (3)(B)(i)(I), not later than 30 days after the date of receipt of the notice of the Administrator under clause (i) the Administrator shall—

“(I) notify the State and the applicable covered treatment works of the failure by the State to make the determination; and
“(II) determine whether to require the covered treatment works to implement the applicable method to reduce the consequences of a chemical release from an intentional act, based on the factors described in paragraph (3)(C).

“(B) ENFORCEMENT ACTIONS.—

“(i) IN GENERAL.—If the Administrator determines that a covered treatment works has failed while located in a State with an approved program under section 402 to implement a method to reduce the consequences of a chemical release from an intentional act that is required by the State or the Administrator under paragraph (3)(B), or by the Administrator under subparagraph (A), the Administrator shall notify the State and the covered treatment works of the determination.

“(ii) ENFORCEMENT ACTION.—If the Administrator determines that a State has failed to commence an appropriate enforcement action by the date that is 30 days after the date of notification by the Admin-
istrator under clause (i), the Administrator shall—

“(I) notify the State and the applicable covered treatment works of the determination; and

“(II) determine whether to commence an appropriate enforcement action against the covered treatment works in accordance with subsection (q) to require the implementation of the relevant method to reduce the consequences of a chemical release from an intentional act at the covered treatment works.

“(C) CONSIDERATION OF CONTINUED PROGRAM APPROVAL.—The Administrator may take into consideration the failure of a State with an approved program under section 402 to make a determination as described in subparagraph (A), or to bring an enforcement action as described in subparagraph (B), in determining whether the State may retain the approved program under section 402.

“(6) GUIDANCE FOR COVERED TREATMENT WORKS.—
“(A) GUIDANCE.—Not later than 180 days after the date of enactment of the Secure Water Facilities Act, the Administrator shall develop, and update thereafter as appropriate, non-binding guidance, including guidance regarding Federal procurement, to assist covered treatment works in assessing and implementing methods to reduce consequences of a chemical release from an intentional act by reducing or eliminating reliance on the use of threshold quantities of substances of concern at the covered treatment works, as established under subsection (i)(1)(B).

“(B) RECOMMENDATIONS.—The Administrator shall, as appropriate, provide or recommend tools, methodologies, or computer software to assist covered treatment works assigned to tier 3 or tier 4 under subsection (h) and required to conduct an assessment under paragraph (2) to achieve compliance with the requirements of this section.

“(l) REVIEW BY ADMINISTRATOR.—

“(1) IN GENERAL.—Each covered treatment works shall submit to the Administrator the vulnerability assessment and site security plan of the cov-
ered treatment works, in accordance with such dead-
line as the Administrator may establish.

“(2) REVIEW.—The Administrator shall—

“(A) review each vulnerability assessment
and site security plan submitted under this sub-
section; and

“(B)(i) if the assessment or plan has any
significant deficiency described in paragraph
(3), require the covered treatment works to cor-
rect the deficiency; or

“(ii) approve the assessment or plan.

“(3) SIGNIFICANT DEFICIENCIES.—

“(A) IN GENERAL.—Subject to subpara-
graph (B), a vulnerability assessment or site se-
curity plan of a covered treatment works has a
significant deficiency under this paragraph if
the Administrator, in consultation with the
State with an approved program under section
402 (if the covered treatment works is located
in such a State), determines that—

“(i) the vulnerability assessment does
not comply with the regulations promul-
gated pursuant to subsection (b); or

“(ii) the site security plan fails—
“(I) to meet applicable risk-based performance standards under subsection (c); or

“(II) to address a vulnerability identified in the vulnerability assessment under subsection (d).

“(B) Exclusion.—A deficiency in the content or implementation of the portion of the site security plan of a covered treatment works relating to methods to reduce the consequences of a chemical release from an intentional act shall not be considered to be a significant deficiency under this paragraph.

“(4) Identification of deficiencies.—If the Administrator identifies a significant deficiency in the vulnerability assessment or site security plan of a covered water system under paragraph (3), the Administrator shall provide to the covered water system a written notification of the deficiency that—

“(A) includes a clear explanation of the deficiency;

“(B) provides guidance to assist the covered water system in addressing the deficiency; and

“(C) requires the covered water system—
“(i) to correct the deficiency; and

“(ii) by such date as the Administrator determines to be appropriate, to submit to the Administrator a revised vulnerability assessment or site security plan.

“(5) STATE, REGIONAL, AND LOCAL GOVERNMENTAL ENTITIES.—No covered treatment works shall be required under State, local, or tribal law to provide a vulnerability assessment or site security plan under this section to any State, regional, local, or tribal governmental entity solely due to the requirement of paragraph (1) to submit such an assessment or plan to the Administrator.

“(m) MAINTENANCE OF RECORDS.—Each covered treatment works shall maintain an updated copy of the vulnerability assessment, site security plan, and emergency response plan of the covered treatment works.

“(n) AUDITS; INSPECTIONS.—

“(1) IN GENERAL.—The Administrator (or a designee) shall audit and inspect covered treatment works as necessary to determine compliance with this section.

“(2) ACCESS.—In conducting an audit or inspection of a covered treatment works under this subsection, the Administrator shall have access to
the owners, operators, employees, contractors, and
employee representatives, if any, of the covered
treatment works.

“(3) CONFIDENTIAL COMMUNICATION OF IN-
FORMATION; AIDING INSPECTIONS.—

“(A) CONFIDENTIAL COMMUNICATION OF
INFORMATION.—The Administrator shall offer
nonsupervisory employees of a covered treat-
ment works the opportunity to confidentially
communicate to the Administrator information
relevant to the compliance or noncompliance by
the covered treatment works with the require-
ments of this section (including regulations pro-
mulgated pursuant to this section).

“(B) AIDING INSPECTIONS.—A representa-
tive of each certified or recognized bargaining
agent described in subsection (g)(3)(B), or a
nonsupervisory employee if no such representa-
tive exists, shall be given an opportunity to ac-
company the Administrator during any physical
inspection of a covered treatment works under
this subsection to assist in the inspection, if a
representative of the covered treatment works
will also be accompanying the Administrator
during the inspection.
“(o) Protection of Information.—

“(1) Definition of protected information.—

“(A) In general.—In this section, the term ‘protected information’ means—

“(i) a vulnerability assessment or site security plan under this section (including any assessment developed under subsection (k)(2));

“(ii) any document directly related to a review by the Administrator of an assessment or plan described in clause (i) and, where applicable, a review by a State of an assessment developed under subsection (k)(2);

“(iii) any document directly related to an inspection or audit under subsection (n);

“(iv) any order, notice, or letter regarding the compliance of a covered treatment works with the requirements of this section;

“(v) any information, document, or record required to be provided to, or cre-
ated by, the Administrator under sub-
section (h);

“(vi) any document directly related to—

“(I) a security drill or training
exercise;

“(II) a security threat or breach;
or

“(III) maintenance, calibration,
or testing of security equipment; and

“(vii) any other information, docu-
ment, or record developed exclusively for
purposes of this section, the disclosure of
which, as determined by the Administrator,
by regulation, would be detrimental to the
security of 1 or more covered treatment
works.

“(B) DETRIMENT REQUIREMENT.—For
purposes of clauses (ii) through (vi) of subpara-
graph (A), the only portion of any document,
record, order, notice, or letter that shall be con-
sidered to be protected information is any por-
tion—

“(i) the disclosure of which, as deter-
mined by the Administrator, by regulation,
would be detrimental to the security of 1 or more covered treatment works; and 

“(ii) that is developed by the Administrator, a State, or a covered treatment works for purposes of this section.

“(C) Exclusions.—The term ‘protected information’ does not include—

“(i) any information, other than a vulnerability assessment or site security plan, that the Administrator has determined, by regulation—

“(I) to be appropriate to demonstrate compliance by a covered treatment works with the requirements of this section; and

“(II) would not be detrimental to the security of any covered treatment works if disclosed; or

“(ii) any information that is obtained from another source with respect to which the Administrator has not made a determination under subparagraph (A)(vii) or (B), regardless of whether the information is included in an assessment or plan under this section, including—
“(I) information that is required
to be made publicly available under
any other provision of law; and
“(II) information that a covered
treatment works has lawfully disclosed
other than through a submission to
the Administrator under this section.

“(2) PROHIBITION.—Protected information—
“(A) shall be exempt from disclosure under
section 552 of title 5, United States Code; and
“(B) shall not be made available pursuant
to any State, local, or tribal law requiring dis-
closure of information or records.

“(3) INFORMATION SHARING.—
“(A) IN GENERAL.—The Administrator
shall promulgate such regulations, and may
issue such orders, as the Administrator deter-
nines to be necessary to prohibit the unauthor-
ized disclosure of protected information.
“(B) SHARING OF PROTECTED INFORMA-
tION.—
“(i) IN GENERAL.—The regulations
under subparagraph (A) shall establish
standards for, and facilitate, the appro-
priate sharing of protected information among—

“(I) Federal, State, local, and tribal authorities;

“(II) first responders;

“(III) law enforcement officials;

“(IV) designated supervisory and nonsupervisory covered treatment works personnel with security, operational, or fiduciary responsibility for the covered treatment works; and

“(V) designated employee representatives of covered treatment works, if any.

“(ii) INCLUSIONS.—The standards established under clause (i) shall include procedures for the sharing of all portions of a vulnerability assessment or site security plan of a covered treatment works relating to the roles and responsibilities of employees or contractors of the covered treatment works under subsection (g) with—

“(I) a representative of each certified or recognized bargaining agent
representing those employees and contractors, if any; or

“(II) if a representative described in subclause (I) does not exist, at least 1 supervisory and at least 1 nonsupervisory employee with roles and responsibilities described in subsection (g).

“(C) PENALTIES.—

“(i) IN GENERAL.—Protected information shall not be shared, except in accordance with the standards established and orders issued pursuant to subparagraph (A).

“(ii) KNOWING VIOLATION.—Whoever discloses protected information in knowing violation of the regulations promulgated under paragraph (1) shall—

“(I) be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and

“(II) in the case of a Federal officeholder or employee, removed from Federal office or employment.
“(4) Treatment of information in adjudicative proceedings.—In any judicial or administrative proceeding, protected information shall be treated in a manner consistent with the treatment of sensitive security information under section 525 of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1381).

“(5) Other obligations unaffected.—Except as provided in subsection (l)(5), nothing in this section modifies or otherwise affects an obligation of a covered treatment works—

“(A) to submit or make available information to employees of the covered treatment works, employee organizations, health professionals, emergency response organizations, or a Federal, State, tribal, or local government agency under any other provision of law; or

“(B) to comply with any other provision of law.

“(6) Congressional oversight.—Nothing in this section authorizes the withholding of information from Congress.

“(7) Disclosure of independently furnished information.—Nothing in this section
modifies or otherwise affects any authority or obliga-
tion of a Federal, State, local, or tribal agency to
protect or disclose any record or information that
the Federal, State, local, or tribal agency obtains
from a covered treatment works or the Adminis-
trator under any other provision of law.

“(p) PREEMPTION.—Nothing in this section pre-
cludes or denies the right of any State or political subdivi-
sion of a State to adopt or enforce any regulation, require-
ment, or standard of performance with respect to a cov-
ered treatment works that is more stringent than a regula-
tion, requirement, or standard of performance established
under this section.

“(q) VIOLATIONS.—

“(1) IN GENERAL.—For purposes of section
309, any violation of a requirement under this sec-
tion (including a regulation promulgated pursuant to
this section) by a covered treatment works shall be
treated in the same manner as a violation of a con-
dition of a permit under section 402.

“(2) METHODS TO REDUCE THE CON-
SEQUENCES OF A CHEMICAL RELEASE FROM AN IN-
TENTIONAL ACT.—Except as provided in paragraphs
(4) and (5) of subsection (k), if a covered treatment
works is located in a State with an approved pro-
gram under section 402, the Administrator may not
issue an order or commence a civil action under this
section for any deficiency in the content or imple-
mentation of the portion of the site security plan of
the covered treatment works relating to methods to
reduce the consequences of a chemical release from
an intentional act (as defined in subsection (k)(1)).

“(r) REPORT TO CONGRESS.—

“(1) ANNUAL REPORT.—Not later than 3 years
after the effective date of the regulations promul-
gated pursuant to subsection (b), and annually
thereafter for each of the following 8 calendar years,
the Administrator shall submit to the Committee on
Environment and Public Works of the Senate and
the Committee on Transportation and Infrastructure
of the House of Representatives a report describing
the progress made during the reporting period in
achieving compliance with this section, including, at
a minimum—

“(A) a generalized summary of measures
implemented by covered treatment works to
meet each risk-based performance standard es-
tablished under subsection (e); and

“(B) a summary of the means by which—
“(i) covered treatment works, as categorized by risk-based tier assignment under subsection (h), are achieving compliance with the requirements of this section; and

“(ii) the Administrator is implementing and enforcing those requirements, including a description of—

“(I) the number of treatment works that provided information to the Administrator pursuant to subsection (h)(2)(B);

“(II) the number of covered treatment works assigned to each risk-based tier under subsection (h);

“(III) the number of vulnerability assessments and site security plans—

“(aa) submitted by covered treatment works; and

“(bb) approved and disapproved by the Administrator;

“(IV) the number of covered treatment works without approved vulnerability assessments or site security plans in place;
“(V)(aa) the number of covered treatment works that have been assigned to a different risk-based tier or are no longer regulated by the Administrator under this section due to implementation of a method to reduce the consequences of a chemical release from an intentional act; and

“(bb) a description of the types of each such method to reduce the consequences of a chemical release from an intentional act;

“(VI) the number of audits and inspections conducted by the Administrator (or a designee) under subsection (n);

“(VII) the number of orders for compliance issued by the Administrator under subsection (q);

“(VIII) the administrative penalties assessed by the Administrator for noncompliance with the requirements of this section;
“(IX) the civil penalties assessed by courts for noncompliance with the requirements of this section; and

“(X) any other regulatory data the Administrator determines to be appropriate to describe—

“(aa) compliance by covered treatment works with the requirements of this section; and

“(bb) the implementation by the Administrator of those requirements.

“(2) Public Availability.—Each report submitted under this section shall be made publicly available.

“(s) Grant Programs.—

“(1) Implementation Grants to States.—The Administrator may provide grants to, or enter into cooperative agreements with, States, based on an allocation formula established by the Administrator, to assist the States in implementing this section.

“(2) Research, Training, and Technical Assistance Grants.—The Administrator may provide grants to, or enter into cooperative agreements
with, nonprofit organizations to provide research, training, and technical assistance to covered treatment works to assist the covered treatment works in achieving compliance with this section.

“(3) PREPARATION GRANTS.—

“(A) GRANTS.—The Administrator may provide grants to, or enter into cooperative agreements with, covered treatment works to assist the covered treatment works in—

“(i) preparing and updating vulnerability assessments, site security plans, and emergency response plans;

“(ii) assessing and implementing methods to reduce the consequences of a release of a substance of concern from an intentional act; and

“(iii) implementing any other security reviews or enhancements that are necessary to achieve compliance with this section.

“(B) PRIORITY.—

“(i) NEED.—In providing grants and entering into cooperative agreements under subparagraph (A)(i), the Administrator shall give priority to covered treatment
works that, as determined by the Administrator, have the greatest need.

“(ii) SECURITY RISK.—In providing grants and entering into cooperative agreements under subparagraph (A)(ii), the Administrator shall give priority to covered treatment works that, as determined by the Administrator, present the greatest security risk.

“(4) WORKER TRAINING GRANTS.—

“(A) DEFINITION OF ELIGIBLE ENTITY.—In this paragraph, the term ‘eligible entity’ means a nonprofit organization with demonstrated experience in implementing and operating successful worker or first responder health and safety or security training programs.

“(B) GRANTS.—The Administrator shall establish a program under which the Administrator shall provide grants to eligible entities to provide for training and education of—

“(i) employees and contractors of covered treatment works with roles or responsibilities described in subsection (g); and

“(ii) first responders and emergency response providers who would respond to
an intentional act at a covered treatment works.

“(C) Administration.—The Administrator shall offer to enter into an agreement with the National Institute of Environmental Health Sciences to administer the program under this paragraph.

“(D) Use of Funds.—An eligible entity shall use a grant received under this paragraph for—

“(i) training and education of employees and contractors with roles or responsibilities described in subsection (g), including the annual mandatory training specified in subsection (g)(2), with priority given to covered treatment works assigned to tier 1 or tier 2 under subsection (h);

“(ii) training of first responders in protecting nearby residents and property or the environment from the effects of a release of a substance of concern at a covered treatment works, with priority given to covered treatment works assigned to tier 1 or tier 2 under subsection (h); and
“(iii) appropriate training for first responders and emergency response providers who would respond to an intentional act at a covered treatment works.

“(t) Timely Provision of Threat-Related Information.—The Secretary shall, upon receipt of information concerning a specific threat that is relevant to a certain covered water treatment works, provide the information in a timely manner, to the maximum extent practicable under applicable authority and in the interests of national security, to—

“(1) covered treatment works;

“(2) the Administrator; and

“(3) the appropriate Federal, State, and local law enforcement officials.

“(u) Authorization of Appropriations.—

“(1) In General.—There are authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2012 through 2016, of which—

“(A) not more than $30,000,000 may be used during each fiscal year for administrative costs incurred by the Administrator or States, as applicable, in carrying out this section; and
“(B) not more than $150,000,000 may be used during each fiscal year to implement methods to reduce the consequences of chemical releases from intentional acts at covered treatment works, with priority given to covered treatment works assigned to tier 1 or tier 2 under subsection (h).

“(2) Security Enhancements.—Amounts provided under this subsection for basic security enhancements shall not be used for—

“(A) personnel costs; or

“(B) monitoring, operation, or maintenance of facilities, equipment, or systems.

“(v) Relation to Chemical Facility Security Requirements.—No provision of any appropriations Act relating to chemical facility security, and no law or regulation establishing a chemical facility antiterrorism standard, shall apply to a covered treatment works under this section.”.

(2) Effective Date.—The amendment made by paragraph (1) takes effect on the date of promulgation by the Administrator of the Environmental Protection Agency of final regulations pursuant to subsection (b)(1) of section 321 of the Federal
Water Pollution Control Act (as amended by paragraph (1)).

(b) Effect of Section.—

(1) In general.—Nothing in this section or the amendment made by this section affects the applicability of any provision of title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as in effect before the effective date of the amendment made by subsection (a)(1)).

(2) Violations.—

(A) In general.—Nothing in this section or the amendment made by this section affects the applicability of any provision of title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as in effect before the effective date of the amendment made by subsection (a)(1)) to any violation of that Act that occurs before that effective date.

(B) Requirements.—The requirements of title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.) (as in effect before the effective date of the amendment made by subsection (a)(1)) shall remain in effect with respect to violations described in subparagraph (A) until the later of—
(i) the date on which the violation is corrected; and
(ii) the date on which enforcement proceedings relating to the violation are completed.

SEC. 203. STUDY TO ASSESS THREAT OF CONTAMINATION OF WASTEWATER TREATMENT WORKS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Homeland Security, shall—

(1) conduct a study to assess—

(A) the threat to wastewater treatment posed by intentional acts of contamination; and

(B) the vulnerability of wastewater treatment works to such a threat; and

(2) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the study.