

Calendar No. 625

109TH CONGRESS
2D SESSION**S. 2781****[Report No. 109-345]**

To amend the Federal Water Pollution Control Act to enhance the security
of wastewater treatment works.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2006

Mr. INHOFE (for himself, Mr. CHAFEE, and Ms. MURKOWSKI) introduced the
following bill; which was read twice and referred to the Committee on En-
vironment and Public Works

SEPTEMBER 21, 2006

Reported by Mr. INHOFE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Federal Water Pollution Control Act to
enhance the security of wastewater treatment works.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wastewater Treatment
5 Works Security Act of 2006”.

1 **SEC. 2. WASTEWATER TREATMENT WORKS SECURITY.**

2 Title II of the Federal Water Pollution Control Act
3 (~~33~~ U.S.C. 1281 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.**

6 **“(a) DEFINITIONS.—**In this section:

7 **“(1) DISRUPTION OF SERVICE EVENT.—**The
8 term ‘disruption of service event’ means a natural
9 disaster or event, or a terrorist attack or other in-
10 tentional act, that—

11 **“(A) substantially disrupts the ability of a**
12 **treatment works to provide safe and reliable—**

13 **“(i) conveyance and treatment of**
14 **wastewater;**

15 **“(ii) disposal of effluent; or**

16 **“(iii) storage of any potentially haz-**
17 **ardous chemical used to treat wastewater;**

18 **“(B) damages critical infrastructure asso-**
19 **ciated with a treatment works;**

20 **“(C) has a substantial adverse effect on**
21 **the environment as a result of harm caused to**
22 **a treatment works; or**

23 **“(D) otherwise poses a significant threat**
24 **to public health or safety as a result of harm**
25 **caused to a treatment works.**

26 **“(2) EMERGENCY RESPONSE PLAN.—**

1 “(A) IN GENERAL.—The term ‘emergency
 2 response plan’ means a plan or set of plans de-
 3 veloped by or in cooperation with a treatment
 4 works that may include the procedures the
 5 treatment works will use when a disruption of
 6 service event occurs, including procedures for
 7 ensuring continued service and protection of the
 8 public health and environment.

9 “(B) INCLUSIONS.—The term ‘emergency
 10 response plan’ includes a plan or set of plans
 11 that may describe, for a case in which a disrup-
 12 tion of service event occurs—

13 “(i) the means by which a publicly
 14 owned treatment works will provide infor-
 15 mation regarding risks to—

16 “(I) the media;

17 “(II) municipal emergency per-
 18 sonnel;

19 “(III) health officials;

20 “(IV) the general public;

21 “(V) Federal and State environ-
 22 mental authorities; and

23 “(VI) other potentially impacted
 24 water utilities;

1 “(ii) the means by which a publicly
 2 owned treatment works will limit contami-
 3 nation of public water supplies, including
 4 temporary treatment and other mitigation
 5 measures;

6 “(iii) the means by which a publicly
 7 owned treatment works will address con-
 8 taminants entering the treatment works or
 9 its collection system, including any con-
 10 taminants added by emergency response
 11 personnel in responding to a natural dis-
 12 aster or terrorist event;

13 “(iv) the means by which a publicly
 14 owned treatment works will secure backup
 15 generation if a loss of power accompanies
 16 the disruption of service event; or

17 “(v) any additional means of col-
 18 lecting or treating wastewater.

19 “(C) CERTAIN OTHER PLANS.—The term
 20 ‘emergency response plan’ may include—

21 “(i) an emergency response plan con-
 22 ducted in accordance with a Federal stat-
 23 ute that addresses each element identified
 24 under subparagraphs (A) and (B); and

1 “(ii) an emergency response plan in
 2 existence on the date of enactment of this
 3 section that is modified to include each ele-
 4 ment identified under subparagraphs (A)
 5 and (B).

6 ~~“(3) VULNERABILITY ASSESSMENT.—~~

7 ~~“(A) IN GENERAL.—~~The term ‘vulner-
 8 ability assessment’ means an assessment of the
 9 vulnerability of a treatment works to a disrup-
 10 tion of service event.

11 ~~“(B) INCLUSIONS.—~~The term ‘vulner-
 12 ability assessment’ may include—

13 ~~“(i) a characterization of the treat-~~
 14 ~~ment works, including, with respect to the~~
 15 ~~treatment works—~~

16 ~~“(I) mission and objective;~~

17 ~~“(II) customer base;~~

18 ~~“(III) the facilities that comprise~~
 19 ~~the treatment works, including—~~

20 ~~“(aa) the collection system;~~

21 ~~“(bb) the pumping station;~~

22 ~~“(cc) the power supply;~~

23 ~~“(dd) electronic and com-~~
 24 ~~puter systems; and~~

25 ~~“(ee) chemical containers;~~

1 “(IV) processes; and

2 “(V) assets for achieving treat-
3 ment works objectives;

4 “(ii) an identification and
5 prioritization of adverse consequences to
6 avoid at the treatment works, including—

7 “(I) substantial disruptions of
8 service;

9 “(II) economic impacts;

10 “(III) loss of life; and

11 “(IV) negative health con-
12 sequences for staff at the treatment
13 works;

14 “(iii) an identification of adverse con-
15 sequences to the public health and safety
16 and the environment and natural re-
17 sources;

18 “(iv) a determination of critical assets
19 of the treatment works that may be subject
20 to a disruption of service event, includ-
21 ing—

22 “(I) pumping stations;

23 “(II) power sources;

24 “(III) electronic and computer
25 systems; and

- 1 “(IV) disinfection processes;
- 2 “(v) an assessment of—
- 3 “(I) the qualitative probability of
- 4 a disruption of service event; and
- 5 “(II) whether the disruption of
- 6 service event is the result of a natural
- 7 or an intentional occurrence;
- 8 “(vi) an evaluation of existing coun-
- 9 termeasures relating to the treatment
- 10 works; and
- 11 “(vii) an analysis of current risk relat-
- 12 ing to the treatment works and the devel-
- 13 opment of a prioritized plan for risk reduc-
- 14 tion at the treatment works.

15 “(b) GRANTS FOR VULNERABILITY ASSESSMENTS
16 AND SECURITY ENHANCEMENTS.—The Administrator
17 may provide grants to any State, municipality, intermunie-
18 ipal or interstate agency, or privately owned utility that
19 principally treats municipal wastewater—

20 “(1) to conduct a vulnerability assessment of a
21 publicly owned treatment works;

22 “(2) to implement security enhancements de-
23 scribed in subsection (c)(1) and other security en-
24 hancements to reduce vulnerabilities identified in a
25 vulnerability assessment;

1 ~~“(3) for the development, expansion, or upgrad-~~
 2 ~~ing of an emergency response plan; and~~

3 ~~“(4) for the voluntary creation by a State or~~
 4 ~~network of treatment works of, or voluntary partici-~~
 5 ~~pation by a treatment works in, a mutual aid and~~
 6 ~~emergency network preparedness agreement devel-~~
 7 ~~oped in accordance with the National Incident Man-~~
 8 ~~agement System established pursuant to presidential~~
 9 ~~directive number 5 of the Department of Homeland~~
 10 ~~Security.~~

11 ~~“(e) GRANTS FOR SECURITY ENHANCEMENTS.—~~

12 ~~“(1) PREAPPROVED SECURITY ENHANCE-~~
 13 ~~MENTS.—Except as provided in paragraph (3), on~~
 14 ~~certification by a State, municipality, intermunicipal~~
 15 ~~or interstate agency, or privately owned utility that~~
 16 ~~principally treats municipal wastewater that a vul-~~
 17 ~~nerability assessment has been completed for a~~
 18 ~~treatment works, and that the security enhancement~~
 19 ~~for which assistance is sought is for the purpose of~~
 20 ~~reducing vulnerabilities of the treatment works iden-~~
 21 ~~tified in the vulnerability assessment, the Adminis-~~
 22 ~~trator may provide grants to the State, municipality,~~
 23 ~~intermunicipal or interstate agency, or privately~~
 24 ~~owned utility under subsection (b)(2) for 1 or more~~
 25 ~~of the uses described in paragraph (2).~~

1 “(2) USES OF GRANT FUNDS.—The uses re-
2 ferred to in paragraph (1) are—

3 “(A) the purchase and installation of
4 equipment for materials and activities relating
5 to access control, intrusion prevention and
6 delay, and detection of intruders and hazardous
7 or dangerous substances, including—

8 “(i) barriers, fencing, and gates;

9 “(ii) security lighting and cameras;

10 “(iii) metal grates, wire mesh, and
11 outfall entry barriers;

12 “(iv) securing of manhole covers and
13 fill and vent pipes;

14 “(v) installation and rekeying of doors
15 and locks; and

16 “(vi) smoke, chemical, and explosive
17 mixture detection systems;

18 “(B) the conduct of an activity to improve
19 the security for electronic, computer, or other
20 automated systems and remote security sys-
21 tems, including—

22 “(i) controlling access to those sys-
23 tems;

24 “(ii) intrusion detection and preven-
25 tion; and

1 ~~“(iii) system backup;~~

2 ~~“(C) participation in a training program;~~
 3 ~~and the purchase of training manuals and guid-~~
 4 ~~ance material; relating to security; and~~

5 ~~“(D) the conduct of security screening of~~
 6 ~~employees or contractor support services.~~

7 ~~“(3) ADDITIONAL SECURITY ENHANCE-~~
 8 ~~MENTS.—~~

9 ~~“(A) GRANTS.—The Administrator may~~
 10 ~~provide a grant under subsection (b) to an ap-~~
 11 ~~plicant for additional security enhancements not~~
 12 ~~specified in paragraph (2).~~

13 ~~“(B) ELIGIBILITY.—To be eligible for a~~
 14 ~~grant under this subsection, an applicant~~
 15 ~~shall—~~

16 ~~“(i) submit to the Administrator an~~
 17 ~~application containing a description of the~~
 18 ~~security enhancement; and~~

19 ~~“(ii) obtain approval of the applica-~~
 20 ~~tion by the Administrator.~~

21 ~~“(4) LIMITATIONS.—~~

22 ~~“(A) USE OF FUNDS.—A grant provided~~
 23 ~~under subsection (b) shall not be used for—~~

24 ~~“(i) payment of personnel costs; or~~

1 “(ii) operation or maintenance of fa-
2 cilities, equipment, or systems.

3 “(B) DISCLOSURE OF VULNERABILITY AS-
4 SESSMENT.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in clause (ii), as a condition of apply-
7 ing for or receiving a grant under this sub-
8 section, the Administrator may not require
9 an applicant to provide the Administrator
10 with a copy of a vulnerability assessment.

11 “(ii) EXCEPTION.—To ensure compli-
12 ance with any applicable Federal grant re-
13 quirement, the Administrator or a designee
14 of the Administrator—

15 “(I) may request and view a copy
16 of a vulnerability assessment associ-
17 ated with a grant under this section;
18 but

19 “(H) shall not take possession or
20 control of the copy.

21 “(C) RESPONSIBILITY OF ADMINIS-
22 TRATOR.—Not later than December 31, 2006,
23 the Administrator, in consultation with appro-
24 priate Federal law enforcement and intelligence
25 officials, shall incorporate into existing proto-

1 cols for protection of sensitive information a
 2 method by which the Administrator will protect
 3 from unauthorized disclosure vulnerability as-
 4 sessment information viewed by the Adminis-
 5 trator or a designee of the Administrator pursu-
 6 ant to subparagraph (B)(ii).

7 “(D) PENALTIES.—

8 “(i) IN GENERAL.—Except as pro-
 9 vided in clause (ii), any individual who
 10 views a vulnerability assessment, a repro-
 11 duction of a vulnerability assessment, or
 12 any information derived from a vulner-
 13 ability assessment, pursuant to subpara-
 14 graph (B)(ii) and who knowingly or reck-
 15 lessly reveals the vulnerability assessment,
 16 reproduction, or information other than to
 17 the Administrator or an individual des-
 18 ignated by the Administrator, or for use in
 19 an administrative or judicial proceeding to
 20 impose a penalty for failure to comply with
 21 this section, shall, on conviction—

22 “(I) be imprisoned for not more
 23 than 1 year or fined in accordance
 24 with chapter 227 of title 18, United

1 States Code, as applicable to class A
2 misdemeanors, or both; and

3 ~~“(H) be removed from Federal~~
4 ~~office or employment.~~

5 ~~“(ii) EXCEPTION.—Notwithstanding~~
6 ~~clause (i), a designee of the Administrator~~
7 ~~who is an officer or employee of the United~~
8 ~~States may discuss with any State or local~~
9 ~~government official the contents of a vul-~~
10 ~~nerability assessment viewed under this~~
11 ~~paragraph.~~

12 ~~“(E) EFFECT OF PARAGRAPH.—Nothing~~
13 ~~in this paragraph authorizes any person to~~
14 ~~withhold any information from Congress or any~~
15 ~~committee or subcommittee of Congress.~~

16 ~~“(5) FALSE CERTIFICATIONS.—An applicant~~
17 ~~that knowingly submits to the Administrator a false~~
18 ~~certification or material statement under this sub-~~
19 ~~section shall be subject to a criminal penalty under~~
20 ~~section 309(e)(4).~~

21 ~~“(6) EXEMPTION UNDER FOIA AND RELATED~~
22 ~~LAWS.—Except for information in a certification~~
23 ~~under this subsection identifying the system for~~
24 ~~which the certification is submitted and the date of~~
25 ~~certification of the system, all information contained~~

1 in a vulnerability assessment certified by an appli-
 2 cant or derived from a vulnerability assessment
 3 under this section shall be exempt from the disclo-
 4 sure requirements under—

5 “(A) section 552 of title 5, United States
 6 Code (commonly known as the ‘Freedom of In-
 7 formation Act’); and

8 “(B) any State or local law providing for
 9 public access to information.

10 “(d) GRANT AMOUNTS.—

11 “(1) FEDERAL SHARE.—The Federal share of
 12 the cost of an activity funded by a grant under sub-
 13 section (b) shall not exceed 50 percent, as deter-
 14 mined by the Administrator.

15 “(2) MAXIMUM AMOUNT.—The total amount of
 16 grants made under subsection (b) for any publicly
 17 owned treatment works shall not exceed \$100,000,
 18 as determined by the Administrator.

19 “(e) TECHNICAL ASSISTANCE FOR SMALL PUBLICLY
 20 OWNED TREATMENT WORKS.—

21 “(1) DEFINITION OF SMALL PUBLICLY OWNED
 22 TREATMENT WORKS.—In this subsection, the term
 23 ‘small publicly owned treatment works’ means a
 24 publicly owned treatment works that services a pop-
 25 ulation of fewer than 10,000 individuals.

1 ~~“(2) SECURITY ASSESSMENT AND PLANNING~~
2 ~~ASSISTANCE.—~~

3 ~~“(A) IN GENERAL.—~~The Administrator, in
4 coordination with the States, may provide tech-
5 nical guidance and assistance to small publicly
6 owned treatment works for—

7 ~~“(i) the conduct of a vulnerability as-~~
8 ~~essment; and~~

9 ~~“(ii) the implementation of security~~
10 enhancements to reduce vulnerabilities
11 identified in a vulnerability assessment.

12 ~~“(B) INCLUSIONS.—~~Technical guidance
13 and assistance provided under subparagraph
14 (A) may include technical assistance programs,
15 training, and preliminary engineering evalua-
16 tions.

17 ~~“(3) PARTICIPATION BY NONPROFIT ORGANIZA-~~
18 ~~TIONS.—~~The Administrator may provide grants to
19 nonprofit organizations to assist in accomplishing
20 the purposes of this subsection.

21 ~~“(f) REFINEMENT OF VULNERABILITY ASSESSMENT~~
22 ~~METHODOLOGY FOR PUBLICLY OWNED TREATMENT~~
23 ~~WORKS.—~~

24 ~~“(1) GRANTS.—~~The Administrator may provide
25 to nonprofit organizations 1 or more grants to be

1 used in improving vulnerability self-assessment
 2 methodologies and tools for publicly owned treat-
 3 ment works, including publicly owned treatment
 4 works that are part of a combined public wastewater
 5 treatment and water supply system.

6 ~~“(2) ELIGIBLE ACTIVITIES.—A grant provided~~
 7 ~~under this subsection may be used—~~

8 ~~“(A) to develop and distribute vulnerability~~
 9 ~~self-assessment methodology software upgrades;~~

10 ~~“(B) to improve and enhance critical tech-~~
 11 ~~nical and user support functions;~~

12 ~~“(C) to expand libraries of information ad-~~
 13 ~~ressing threats and countermeasures; and~~

14 ~~“(D) to implement user training initiatives.~~

15 ~~“(3) COST.—A service described in paragraph~~
 16 ~~(2) that is funded by a grant under this subsection~~
 17 ~~shall be provided at no cost to the recipients of the~~
 18 ~~service.~~

19 ~~“(g) AUTHORIZATION OF APPROPRIATIONS.—There~~
 20 ~~is authorized to be appropriated—~~

21 ~~“(1) \$200,000,000 for use in making grants~~
 22 ~~under subsection (b); to remain available until ex-~~
 23 ~~pended;~~

24 ~~“(2) \$15,000,000 for use in providing assist-~~
 25 ~~ance under subsection (c); and~~

1 “(3) to carry out subsection (f), \$1,000,000 for
2 each of fiscal years 2006 through 2010.”.

3 **SEC. 3. RESEARCH AND REVIEW OF COLLECTION SYSTEMS**
4 **AND TREATMENT WORKS.**

5 Title II of the Federal Water Pollution Control Act
6 (~~33~~ U.S.C. 1281 et seq.) (as amended by section 2) is
7 amended by adding at the end the following:

8 **“SEC. 223. RESEARCH AND REVIEW OF COLLECTION SYS-**
9 **TEMS AND TREATMENT WORKS.**

10 “(a) DEFINITION OF COLLECTION SYSTEM.—In this
11 section, the term ‘collection system’ means the under-
12 ground network of sewers, including sanitary and storm
13 water collection lines.

14 “(b) RESEARCH AND REVIEW.—The Administrator,
15 in consultation with appropriate Federal agencies, shall
16 conduct research and a review, or enter into a contract
17 or cooperative agreement for the conduct of research and
18 a review, of—

19 “(1) means of providing alternative processes to
20 convey, treat, and dispose of wastewater if a interrup-
21 tion of service event (as defined in section 222) oc-
22 curs;

23 “(2) the means by which the collection system
24 of a treatment works could—

1 “(A) be used to convey hazardous chemi-
 2 cals or substances (including explosive devices),
 3 including a comprehensive analysis of the types
 4 of hazardous chemicals, substances, and explo-
 5 sive devices that could be placed in the collec-
 6 tion system; and

7 “(B) be secured in response to an inten-
 8 tional harmful act;

9 “(3) methods for monitoring—

10 “(A) the collection system of a treatment
 11 works for hazardous chemicals or substances;
 12 including explosive devices; and

13 “(B) unauthorized entry into the collection
 14 system of a treatment works; and

15 “(4) treatment technologies, including the af-
 16 fordability, effectiveness, and limitations of each
 17 treatment technology.

18 “(e) ~~AUTHORIZATION OF APPROPRIATIONS.~~—There
 19 is authorized to be appropriated to carry out this section
 20 \$5,000,000 for each of fiscal years 2006 through 2010.”.

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Wastewater Treatment*
 23 *Works Security Act of 2006”.*

1 **SEC. 2. WASTEWATER TREATMENT WORKS SECURITY.**

2 *Title II of the Federal Water Pollution Control Act (33*
 3 *U.S.C. 1281 et seq.) is amended by adding at the end the*
 4 *following:*

5 **“SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.**

6 *“(a) DEFINITIONS.—In this section:*

7 *“(1) DISRUPTION OF SERVICE EVENT.—The term*
 8 *‘disruption of service event’ means a natural disaster*
 9 *or event, or a terrorist attack or other intentional act,*
 10 *that—*

11 *“(A) substantially disrupts the ability of a*
 12 *treatment works to provide safe and reliable—*

13 *“(i) conveyance and treatment of*
 14 *wastewater;*

15 *“(ii) disposal of effluent; or*

16 *“(iii) storage of any potentially haz-*
 17 *ardous chemical used to treat wastewater;*

18 *“(B) damages critical infrastructure associ-*
 19 *ated with a treatment works;*

20 *“(C) has a substantial adverse effect on the*
 21 *environment as a result of harm caused to a*
 22 *treatment works; or*

23 *“(D) otherwise poses a significant threat to*
 24 *public health or safety as a result of harm caused*
 25 *to a treatment works.*

26 *“(2) EMERGENCY RESPONSE PLAN.—*

1 “(A) *IN GENERAL.*—The term ‘emergency
 2 response plan’ means a plan or set of plans de-
 3 veloped by or in cooperation with a treatment
 4 works that may include the procedures the treat-
 5 ment works will use when a disruption of service
 6 event occurs, including procedures for ensuring
 7 continued service and protection of the public
 8 health and environment.

9 “(B) *INCLUSIONS.*—The term ‘emergency re-
 10 sponse plan’ includes a plan or set of plans that
 11 may describe, for a case in which a disruption
 12 of service event occurs—

13 “(i) the means by which a publicly
 14 owned treatment works will provide infor-
 15 mation regarding risks to—

16 “(I) the media;

17 “(II) municipal emergency per-
 18 sonnel;

19 “(III) health officials;

20 “(IV) the general public;

21 “(V) Federal and State environ-
 22 mental authorities; and

23 “(VI) other potentially impacted
 24 water utilities;

1 “(ii) *the means by which a publicly*
 2 *owned treatment works will limit contami-*
 3 *nation of public water supplies, including*
 4 *temporary treatment and other mitigation*
 5 *measures;*

6 “(iii) *the means by which a publicly*
 7 *owned treatment works will address con-*
 8 *taminants entering the treatment works or*
 9 *its collection system, including any con-*
 10 *taminants added by emergency response*
 11 *personnel in responding to a natural dis-*
 12 *aster or terrorist event;*

13 “(iv) *the means by which a publicly*
 14 *owned treatment works will secure backup*
 15 *generation if a loss of power accompanies*
 16 *the disruption of service event; or*

17 “(v) *any additional means of collecting*
 18 *or treating wastewater.*

19 “(C) *CERTAIN OTHER PLANS.—The term*
 20 *‘emergency response plan’ may include—*

21 “(i) *an emergency response plan con-*
 22 *ducted in accordance with a Federal statute*
 23 *that addresses each element identified under*
 24 *subparagraphs (A) and (B); and*

1 “(ii) an emergency response plan in
 2 existence on the date of enactment of this
 3 section that is modified to include each ele-
 4 ment identified under subparagraphs (A)
 5 and (B).

6 “(3) *SITE SECURITY PLAN.*—The term ‘site secu-
 7 rity plan’ means a plan to implement, to the max-
 8 imum extent practicable, changes at a treatment
 9 works based on information in a vulnerability assess-
 10 ment to address risks posed by a disruption of service
 11 event.

12 “(4) *VULNERABILITY ASSESSMENT.*—

13 “(A) *IN GENERAL.*—The term ‘vulnerability
 14 assessment’ means an assessment of the vulner-
 15 ability of a treatment works to a disruption of
 16 service event.

17 “(B) *INCLUSIONS.*—The term ‘vulnerability
 18 assessment’ may include—

19 “(i) a characterization of the treatment
 20 works, including, with respect to the treat-
 21 ment works—

22 “(I) mission and objective;

23 “(II) customer base;

24 “(III) the facilities that comprise
 25 the treatment works, including—

- 1 “(aa) the collection system;
- 2 “(bb) the pumping station;
- 3 “(cc) the power supply;
- 4 “(dd) electronic and com-
- 5 puter systems; and
- 6 “(ee) chemical containers;
- 7 “(IV) processes; and
- 8 “(V) assets for achieving treat-
- 9 ment works objectives;
- 10 “(ii) an identification and
- 11 prioritization of adverse consequences to
- 12 avoid at the treatment works, including—
- 13 “(I) substantial disruptions of
- 14 service;
- 15 “(II) economic impacts;
- 16 “(III) loss of life; and
- 17 “(IV) negative health consequences
- 18 for staff at the treatment works;
- 19 “(iii) an identification of adverse con-
- 20 sequences to the public health and safety
- 21 and the environment and natural resources;
- 22 “(iv) a determination of critical assets
- 23 of the treatment works that may be subject
- 24 to a disruption of service event, including—
- 25 “(I) pumping stations;

1 “(II) power sources;

2 “(III) electronic and computer
3 systems; and

4 “(IV) disinfection processes;

5 “(v) an assessment of—

6 “(I) the qualitative probability of
7 a disruption of service event; and

8 “(II) whether the disruption of
9 service event is the result of a natural
10 or an intentional occurrence;

11 “(vi) an evaluation of existing counter-
12 measures relating to the treatment works;
13 and

14 “(vii) an analysis of current risk relat-
15 ing to the treatment works and the develop-
16 ment of a prioritized plan for risk reduction
17 at the treatment works.

18 “(b) GRANTS FOR VULNERABILITY ASSESSMENTS AND
19 SECURITY ENHANCEMENTS.—The Administrator may pro-
20 vide grants to any State, municipality, intermunicipal or
21 interstate agency, or privately owned utility that prin-
22 cipally treats municipal wastewater—

23 “(1) to conduct a vulnerability assessment of a
24 publicly owned treatment works;

1 “(2) to implement security enhancements de-
 2 scribed in subsection (c)(1) and other security en-
 3 hancements to reduce vulnerabilities identified in a
 4 vulnerability assessment;

5 “(3) for the development, expansion, or upgrad-
 6 ing of an emergency response plan and site security
 7 plan; and

8 “(4) for the voluntary creation by a State or net-
 9 work of treatment works of, or voluntary participa-
 10 tion by a treatment works in, a mutual aid and
 11 emergency network preparedness agreement developed
 12 in accordance with the National Incident Manage-
 13 ment System established pursuant to presidential di-
 14 rective number 5 of the Department of Homeland Se-
 15 curity.

16 “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

17 “(1) PREAPPROVED SECURITY ENHANCE-
 18 MENTS.—On certification by a State, municipality,
 19 intermunicipal or interstate agency, or privately
 20 owned utility that principally treats municipal
 21 wastewater that a vulnerability assessment has been
 22 completed for a treatment works, and that the secu-
 23 rity enhancement for which assistance is sought is for
 24 the purpose of reducing vulnerabilities of the treat-
 25 ment works identified in the vulnerability assessment,

1 *the Administrator may provide grants to the State,*
 2 *municipality, intermunicipal or interstate agency, or*
 3 *privately owned utility under subsection (b)(2) for 1*
 4 *or more of the uses described in paragraph (2).*

5 “(2) *USES OF GRANT FUNDS.—The uses referred*
 6 *to in paragraph (1) include—*

7 “(A) *the purchase and installation of equip-*
 8 *ment for materials and activities relating to ac-*
 9 *cess control, intrusion prevention and delay, and*
 10 *detection of intruders and hazardous or dan-*
 11 *gerous substances, including—*

12 “(i) *barriers, fencing, and gates;*

13 “(ii) *security lighting and cameras;*

14 “(iii) *metal grates, wire mesh, and*
 15 *outfall entry barriers;*

16 “(iv) *securing of manhole covers and*
 17 *fill and vent pipes;*

18 “(v) *installation and rekeying of doors*
 19 *and locks; and*

20 “(vi) *smoke, chemical, and explosive*
 21 *mixture detection systems;*

22 “(B) *the conduct of an activity to improve*
 23 *the security for electronic, computer, or other*
 24 *automated systems and remote security systems,*
 25 *including—*

1 “(i) controlling access to those systems;

2 “(ii) intrusion detection and preven-
3 tion; and

4 “(iii) system backup;

5 “(C) participation in a training program,
6 and the purchase of training manuals and guid-
7 ance material, relating to security; and

8 “(D) the conduct of security screening of
9 employees or contractor support services.

10 “(3) LIMITATIONS.—

11 “(A) USE OF FUNDS.—A grant provided
12 under subsection (b) shall not be used for—

13 “(i) payment of personnel costs; or

14 “(ii) operation or maintenance of fa-
15 cilities, equipment, or systems.

16 “(B) DISCLOSURE OF VULNERABILITY AS-
17 SESSMENT.—

18 “(i) IN GENERAL.—Except as provided
19 in clause (ii), as a condition of applying for
20 or receiving a grant under this subsection,
21 the Administrator may not require an ap-
22 plicant to provide the Administrator with a
23 copy of a vulnerability assessment.

24 “(ii) EXCEPTION.—To ensure compli-
25 ance with any applicable Federal grant re-

quirement, the Administrator or a designee
of the Administrator—

“(I) may request and view a copy
of a vulnerability assessment associated
with a grant under this section; but

“(II) shall not take possession or
control of the copy.

“(C) *RESPONSIBILITY OF ADMINIS-
TRATOR.*—Not later than December 31, 2006, the
Administrator, in consultation with appropriate
Federal law enforcement and intelligence offi-
cials, shall incorporate into existing protocols for
protection of sensitive information a method by
which the Administrator will protect from unau-
thorized disclosure vulnerability assessment in-
formation viewed by the Administrator or a des-
ignee of the Administrator pursuant to subpara-
graph (B)(ii).

“(D) *PENALTIES.*—

“(i) *IN GENERAL.*—Except as provided
in clause (ii), any individual who views a
vulnerability assessment, a reproduction of
a vulnerability assessment, or any informa-
tion derived from a vulnerability assess-
ment, pursuant to subparagraph (B)(ii)

1 *and who knowingly or recklessly reveals the*
 2 *vulnerability assessment, reproduction, or*
 3 *information other than to the Administrator*
 4 *or an individual designated by the Admin-*
 5 *istrator, or for use in an administrative or*
 6 *judicial proceeding to impose a penalty for*
 7 *failure to comply with this section, shall, on*
 8 *conviction—*

9 “(I) *be imprisoned for not more*
 10 *than 1 year or fined in accordance*
 11 *with chapter 227 of title 18, United*
 12 *States Code, as applicable to class A*
 13 *misdemeanors, or both; and*

14 “(II) *be removed from Federal of-*
 15 *fice or employment.*

16 “(ii) *EXCEPTION.—Notwithstanding*
 17 *clause (i), a designee of the Administrator*
 18 *who is an officer or employee of the United*
 19 *States may discuss with any State or local*
 20 *government official the contents of a vulner-*
 21 *ability assessment viewed under this para-*
 22 *graph.*

23 “(E) *EFFECT OF PARAGRAPH.—Nothing in*
 24 *this paragraph authorizes any person to with-*

1 *hold any information from Congress or any com-*
 2 *mittee or subcommittee of Congress.*

3 “(4) *FALSE CERTIFICATIONS.—An applicant*
 4 *that knowingly submits to the Administrator a false*
 5 *certification or material statement under this sub-*
 6 *section shall be subject to a criminal penalty under*
 7 *section 309(c)(4).*

8 “(5) *EXEMPTION UNDER FOIA AND RELATED*
 9 *LAWS.—Except for information in a certification*
 10 *under this subsection identifying the system for which*
 11 *the certification is submitted and the date of certifi-*
 12 *cation of the system, all information contained in a*
 13 *vulnerability assessment certified by an applicant or*
 14 *derived from a vulnerability assessment under this*
 15 *section shall be exempt from the disclosure require-*
 16 *ments under—*

17 “(A) *section 552 of title 5, United States*
 18 *Code (commonly known as the ‘Freedom of Infor-*
 19 *mation Act’); and*

20 “(B) *any State or local law providing for*
 21 *public access to information.*

22 “(d) *GRANT AMOUNTS.—*

23 “(1) *FEDERAL SHARE.—The Federal share of the*
 24 *cost of an activity funded by a grant under subsection*

1 (b) shall not exceed 50 percent, as determined by the
2 Administrator.

3 “(2) *MAXIMUM AMOUNT.*—The total amount of
4 grants made under subsection (b) for any publicly
5 owned treatment works shall not exceed \$100,000, as
6 determined by the Administrator.

7 “(e) *TECHNICAL ASSISTANCE FOR SMALL PUBLICLY*
8 *OWNED TREATMENT WORKS.*—

9 “(1) *DEFINITION OF SMALL PUBLICLY OWNED*
10 *TREATMENT WORKS.*—In this subsection, the term
11 ‘small publicly owned treatment works’ means a pub-
12 licly owned treatment works that services a popu-
13 lation of fewer than 10,000 individuals.

14 “(2) *SECURITY ASSESSMENT AND PLANNING AS-*
15 *SISTANCE.*—

16 “(A) *IN GENERAL.*—The Administrator, in
17 coordination with the States, may provide tech-
18 nical guidance and assistance to small publicly
19 owned treatment works for—

20 “(i) the conduct of a vulnerability as-
21 sessment, emergency response plan, or site
22 security plan; and

23 “(ii) the implementation of security
24 enhancements to reduce vulnerabilities iden-
25 tified in a vulnerability assessment.

1 “(B) *INCLUSIONS.—Technical guidance and*
 2 *assistance provided under subparagraph (A)*
 3 *may include technical assistance programs,*
 4 *training, and preliminary engineering evalua-*
 5 *tions.*

6 “(3) *PARTICIPATION BY NONPROFIT ORGANIZA-*
 7 *TIONS.—The Administrator may provide grants to*
 8 *nonprofit organizations to assist in accomplishing the*
 9 *purposes of this subsection.*

10 “(f) *REFINEMENT OF VULNERABILITY ASSESSMENT*
 11 *METHODOLOGY FOR PUBLICLY OWNED TREATMENT*
 12 *WORKS.—*

13 “(1) *GRANTS.—The Administrator may provide*
 14 *to nonprofit organizations 1 or more grants to be used*
 15 *in improving vulnerability self-assessment methodolo-*
 16 *gies and tools for publicly owned treatment works, in-*
 17 *cluding publicly owned treatment works that are part*
 18 *of a combined public wastewater treatment and water*
 19 *supply system.*

20 “(2) *ELIGIBLE ACTIVITIES.—A grant provided*
 21 *under this subsection may be used—*

22 “(A) *to develop and distribute vulnerability*
 23 *self-assessment methodology software upgrades;*

24 “(B) *to improve and enhance critical tech-*
 25 *nical and user support functions;*

1 “(C) to expand libraries of information ad-
2 dressing threats and countermeasures; and

3 “(D) to implement user training initiatives.

4 “(3) COST.—A service described in paragraph
5 (2) that is funded by a grant under this subsection
6 shall be provided at no cost to the recipients of the
7 service.

8 “(g) TRAINING GRANTS.—

9 “(1) IN GENERAL.—The Administrator may pro-
10 vide grants to nonprofit organizations to be used in
11 accordance with paragraph (2) to implement a com-
12 prehensive training program for treatment works or
13 privately owned utilities that principally treat mu-
14 nicipal wastewater.

15 “(2) ELIGIBLE ACTIVITIES.—A grant provided
16 under paragraph (1) may be used—

17 “(A) to develop and implement a training
18 program to assist treatment works in—

19 “(i) conducting vulnerability assess-
20 ments using vulnerability self-assessment
21 methodology software;

22 “(ii) developing emergency response
23 plans; and

1 “(iii) *identifying security enhance-*
 2 *ments, including operational adjustments*
 3 *and design practices; and*

4 “(B) *to develop and disseminate to treat-*
 5 *ment works information on best practices for*
 6 *emergency response plans and security enhance-*
 7 *ments, including operational adjustments and*
 8 *design practices.*

9 “(3) *COST.—Training and technical assistance*
 10 *provided pursuant to a grant under paragraph (1)*
 11 *shall be provided at no cost to the recipients of the*
 12 *assistance.*

13 “(h) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 14 *authorized to be appropriated—*

15 “(1) *\$200,000,000 for use in making grants*
 16 *under subsection (b), to remain available until ex-*
 17 *pended;*

18 “(2) *\$15,000,000 for use in providing assistance*
 19 *under subsections (e) and (g); and*

20 “(3) *to carry out subsection (f), \$1,000,000 for*
 21 *each of fiscal years 2007 through 2011.”.*

1 **SEC. 3. RESEARCH AND REVIEW OF COLLECTION SYSTEMS**
 2 **AND TREATMENT WORKS.**

3 *Title II of the Federal Water Pollution Control Act (33*
 4 *U.S.C. 1281 et seq.) (as amended by section 2) is amended*
 5 *by adding at the end the following:*

6 **“SEC. 223. RESEARCH AND REVIEW OF COLLECTION SYS-**
 7 **TEMS AND TREATMENT WORKS.**

8 *“(a) DEFINITION OF COLLECTION SYSTEM.—In this*
 9 *section, the term ‘collection system’ means the underground*
 10 *network of sewers, including sanitary and storm water col-*
 11 *lection lines.*

12 *“(b) RESEARCH AND REVIEW.—The Administrator, in*
 13 *consultation with appropriate Federal agencies, shall con-*
 14 *duct research and a review, or enter into a contract or coop-*
 15 *erative agreement for the conduct of research and a review,*
 16 *of—*

17 *“(1) means of providing alternative processes to*
 18 *convey, treat, and dispose of wastewater if a disrup-*
 19 *tion of service event (as defined in section 222) oc-*
 20 *curs;*

21 *“(2) the means by which the collection system of*
 22 *a treatment works could—*

23 *“(A) be used to convey hazardous chemicals*
 24 *or substances (including explosive devices), in-*
 25 *cluding a comprehensive analysis of the types of*
 26 *hazardous chemicals, substances, and explosive*

1 *devices that could be placed in the collection sys-*
2 *tem; and*

3 *“(B) be secured in response to an inten-*
4 *tional harmful act;*

5 *“(3) methods for monitoring—*

6 *“(A) the collection system of a treatment*
7 *works for hazardous chemicals or substances, in-*
8 *cluding explosive devices; and*

9 *“(B) unauthorized entry into the collection*
10 *system of a treatment works; and*

11 *“(4) treatment technologies, including the afford-*
12 *ability, effectiveness, and limitations of each treat-*
13 *ment technology.*

14 *“(c) AUTHORIZATION OF APPROPRIATIONS.—There is*
15 *authorized to be appropriated to carry out this section*
16 *\$5,000,000 for each of fiscal years 2007 through 2011.”.*

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109TH CONGRESS
2^D Session

S. 2781

[Report No. 109-345]

A BILL

To amend the Federal Water Pollution Control Act
to enhance the security of wastewater treatment
works.

SEPTEMBER 21, 2006

Reported with an amendment