

110TH CONGRESS
1ST SESSION

S. 1303

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

IN THE SENATE OF THE UNITED STATES

MAY 3, 2007

Mr. INHOFE (for himself, Mr. ISAKSON, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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 2007”.

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

7 Title II of the Federal Water Pollution Control Act
8 (33 U.S.C. 1281 et seq.) is amended by adding at the end
9 the following:

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

2 “(a) DEFINITIONS.—In this section:

3 “(1) DISRUPTION OF SERVICE EVENT.—The
4 term ‘disruption of service event’ means a natural
5 disaster or event, or a terrorist attack or other in-
6 tentional act, that—

7 “(A) substantially disrupts the ability of a
8 treatment works to provide safe and reliable—

9 “(i) conveyance and treatment of
10 wastewater;

11 “(ii) disposal of effluent; or

12 “(iii) storage of any potentially haz-
13 ardous chemical used to treat wastewater;

14 “(B) damages critical infrastructure asso-
15 ciated with a treatment works;

16 “(C) has a substantial adverse effect on
17 the environment as a result of harm caused to
18 a treatment works; or

19 “(D) otherwise poses a significant threat
20 to public health or safety as a result of harm
21 caused to a treatment works.

22 “(2) EMERGENCY RESPONSE PLAN.—

23 “(A) IN GENERAL.—The term ‘emergency
24 response plan’ means a plan or set of plans de-
25 veloped by or in cooperation with a treatment
26 works that may include the procedures the

1 treatment works will use when a disruption of
2 service event occurs, including procedures for
3 ensuring continued service and protection of the
4 public health and environment.

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

9 “(i) the means by which a publicly
10 owned treatment works will provide infor-
11 mation regarding risks to—

12 “(I) the media;

13 “(II) municipal emergency per-
14 sonnel;

15 “(III) health officials;

16 “(IV) the general public;

17 “(V) Federal and State environ-
18 mental authorities; and

19 “(VI) other potentially impacted
20 water utilities;

21 “(ii) the means by which a publicly
22 owned treatment works will limit contami-
23 nation of public water supplies, including
24 temporary treatment and other mitigation
25 measures;

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

8 “(iv) the means by which a publicly
9 owned treatment works will secure backup
10 generation if a loss of power accompanies
11 the disruption of service event; or

12 “(v) any additional means of col-
13 lecting or treating wastewater.

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

16 “(i) an emergency response plan con-
17 ducted in accordance with a Federal stat-
18 ute that addresses each element identified
19 under subparagraphs (A) and (B); and

20 “(ii) an emergency response plan in
21 existence on the date of enactment of this
22 section that is modified to include each ele-
23 ment identified under subparagraphs (A)
24 and (B).

1 “(3) SITE SECURITY PLAN.—The term ‘site se-
 2 curity plan’ means a plan to implement, to the max-
 3 imum extent practicable, changes at a treatment
 4 works based on information in a vulnerability assess-
 5 ment to address risks posed by a disruption of serv-
 6 ice event.

7 “(4) VULNERABILITY ASSESSMENT.—

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

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

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

17 “(I) mission and objective;

18 “(II) customer base;

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

21 “(aa) the collection system;

22 “(bb) the pumping station;

23 “(cc) the power supply;

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

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

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

3 “(IV) disinfection processes;

4 “(v) an assessment of—

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

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

10 “(vi) an evaluation of existing coun-
11 termeasures relating to the treatment
12 works; and

13 “(vii) an analysis of current risk relat-
14 ing to the treatment works and the devel-
15 opment of a prioritized plan for risk reduc-
16 tion at the treatment works.

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

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

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

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

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

15 “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

16 “(1) SECURITY ENHANCEMENTS.—On certifi-
17 cation by a State, municipality, intermunicipal or
18 interstate agency, or privately owned utility that
19 principally treats municipal wastewater that a vul-
20 nerability assessment has been completed for a
21 treatment works, and that the security enhancement
22 for which assistance is sought is for the purpose of
23 reducing vulnerabilities of the treatment works iden-
24 tified in the vulnerability assessment, the Adminis-
25 trator may provide grants under this subsection to

1 the State, municipality, intermunicipal or interstate
2 agency, or privately owned utility.

3 “(2) USES OF GRANT FUNDS.—The eligible
4 uses for grant funds provided under paragraph (1)
5 may include—

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

11 “(i) barriers, fencing, and gates;

12 “(ii) security lighting and cameras;

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

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

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

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

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

1 “(i) controlling access to those sys-
2 tems;

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

5 “(iii) system backup;

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

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

11 “(3) LIMITATIONS.—

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

14 “(i) payment of personnel costs; or

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

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

19 “(i) IN GENERAL.—Except as pro-
20 vided in clause (ii), as a condition of apply-
21 ing for or receiving a grant under this sub-
22 section, the Administrator may not require
23 an applicant to provide the Administrator
24 with a copy of a vulnerability assessment.

1 “(ii) EXCEPTION.—To ensure compli-
2 ance with any applicable Federal grant re-
3 quirement, the Administrator or a designee
4 of the Administrator—

5 “(I) may request and view a copy
6 of a vulnerability assessment associ-
7 ated with a grant under this section;
8 but

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

11 “(C) RESPONSIBILITY OF ADMINIS-
12 TRATOR.—Not later than December 31, 2006,
13 the Administrator, in consultation with appro-
14 priate Federal law enforcement and intelligence
15 officials, shall incorporate into existing proto-
16 cols for protection of sensitive information a
17 method by which the Administrator will protect
18 from unauthorized disclosure vulnerability as-
19 sessment information viewed by the Adminis-
20 trator or a designee of the Administrator pursu-
21 ant to subparagraph (B)(ii).

22 “(D) PENALTIES.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in clause (ii), any individual who
25 views a vulnerability assessment, a repro-

1 duction of a vulnerability assessment, or
2 any information derived from a vulner-
3 ability assessment, pursuant to subpara-
4 graph (B)(ii) and who knowingly or reck-
5 lessly reveals the vulnerability assessment,
6 reproduction, or information other than to
7 the Administrator or an individual des-
8 ignated by the Administrator, or for use in
9 an administrative or judicial proceeding to
10 impose a penalty for failure to comply with
11 this section, shall, on conviction—

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

17 “(II) be removed from Federal
18 office or employment.

19 “(ii) EXCEPTION.—Notwithstanding
20 clause (i), a designee of the Administrator
21 who is an officer or employee of the United
22 States may discuss with any State or local
23 government official the contents of a vul-
24 nerability assessment viewed under this
25 paragraph.

1 “(E) EFFECT OF PARAGRAPH.—Nothing
2 in this paragraph authorizes any person to
3 withhold any information from Congress or any
4 committee or subcommittee of Congress.

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

10 “(5) EXEMPTION UNDER FOIA AND RELATED
11 LAWS.—Except for information in a certification
12 under this subsection identifying the system for
13 which the certification is submitted and the date of
14 certification of the system, all information contained
15 in a vulnerability assessment certified by an appli-
16 cant or derived from a vulnerability assessment
17 under this section shall be exempt from the disclo-
18 sure requirements under—

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

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

24 “(d) GRANT AMOUNTS.—

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

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

9 “(e) TECHNICAL ASSISTANCE FOR SMALL PUBLICLY
10 OWNED TREATMENT WORKS.—

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

16 “(2) SECURITY ASSESSMENT AND PLANNING
17 ASSISTANCE.—

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

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

1 “(ii) the implementation of security
2 enhancements to reduce vulnerabilities
3 identified in a vulnerability assessment.

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

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

13 “(f) REFINEMENT OF VULNERABILITY ASSESSMENT
14 METHODOLOGY FOR PUBLICLY OWNED TREATMENT
15 WORKS.—

16 “(1) GRANTS.—The Administrator may provide
17 to nonprofit organizations 1 or more grants to be
18 used in improving vulnerability self-assessment
19 methodologies and tools for publicly owned treat-
20 ment works, including publicly owned treatment
21 works that are part of a combined public wastewater
22 treatment and water supply system.

23 “(2) ELIGIBLE ACTIVITIES.—A grant provided
24 under this subsection may be used—

1 “(A) to develop and distribute vulnerability
2 self-assessment methodology software upgrades;

3 “(B) to improve and enhance critical tech-
4 nical and user support functions;

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

7 “(D) to implement user training initiatives.

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

12 “(g) TRAINING GRANTS.—

13 “(1) IN GENERAL.—The Administrator may
14 provide grants to nonprofit organizations to be used
15 in accordance with paragraph (2) to implement a
16 comprehensive training program for treatment works
17 or privately owned utilities that principally treat mu-
18 nicipal wastewater.

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

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

23 “(i) conducting vulnerability assess-
24 ments using vulnerability self-assessment
25 methodology software;

1 “(ii) developing emergency response
2 plans; and

3 “(iii) identifying security enhance-
4 ments, including operational adjustments
5 and design practices; and

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

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

15 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
16 is authorized to be appropriated—

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

20 “(2) \$15,000,000 for use in providing assist-
21 ance under subsections (e) and (g); and

22 “(3) to carry out subsection (f), \$1,000,000 for
23 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
4 (33 U.S.C. 1281 et seq.) (as amended by section 2) is
5 amended 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 under-
10 ground network of sewers, including sanitary and storm
11 water collection lines.

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

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

1 sive devices that could be placed in the collec-
2 tion system; and

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

5 “(3) methods for monitoring—

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

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

11 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
12 is authorized to be appropriated to carry out this section
13 \$5,000,000 for each of fiscal years 2007 through 2011.”.

○