



**American Water Works  
Association**

**Alert!**

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The Authoritative Resource on Safe Water <sup>SM</sup>

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**To:** AWWA Executive Committee  
Water Utility Council  
Section Government Affairs Contacts

**From:** AWWA Government Affairs Office

**Date:** January 18, 2008

**Re: Urgent: Chemical Security Legislation to Include Water**

The Committee on Homeland Security is developing a bill to modify and make permanent the Department of Homeland Security's Chemical Facility Anti-Terrorism (CFATS) program, and is poised to include water and wastewater utilities in that program for the first time. AWWA is writing the committee to express our concerns with the bill and ask for a continued exclusion from the program. You may wish to contact your member of Congress immediately to do the same thing. Time is of the essence, as the House Subcommittee on Transportation Security and Infrastructure Protection (Chaired by Rep. Sheila Jackson Lee, D-Tex.) plans to mark up a draft bill as early as the middle of next week.

Attached to this memo is a letter to members of the Homeland Security Committee, which you may modify for your own use. Also attached is a list of members of that Committee. If your member of Congress does not sit on the Homeland Security Committee, please contact him or her anyway and ask that he or she contact Rep. Bennie Thompson (D-Miss) or Rep. Peter King (R-NY), Chair and Ranking Member of the full committee, respectively, to urge the exclusion of water and wastewater utilities from the chemical security program.

The key points to make are that 1) we are already covered by numerous federal, state, and local requirements relating to chemical security and chemical safety, so this program is duplicative and unnecessary; 2) adding the water sector to this program raises utility bills without a commensurate benefit to your customers; and 3) the bill as written does not fit the water sector in several important respects (such as giving the DHS the authority to order treatment changes, to order the cessation of service, and to levy very large fines and penalties that are inappropriate for an instrumentality of local government).

Calls and e-mails are needed; land mail will not get there in time. The best bet is to use the "contact form" found on your Member's website. To find that, go to [www.house.gov](http://www.house.gov) and use the "Find Your Representative" search device in the upper left-hand corner of the page. Contact information for members of the House Homeland Security Committee is attached.

As always, please call Tom Curtis or Tommy Holmes in the AWWA Government Affairs Office (202-628-8303) if you have questions or comments.



January XX, 2008

The Honorable -----  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative -----,

As **[your title or position]** at the **[your utility]** in **[your town]**, I am strongly committed to ensuring that the nation's water infrastructure is protected against threats to homeland security. We in the water community take homeland security and the safety of our own communities very seriously. However, having reviewed the chemical security legislation being developed by the House Homeland Security Committee, I believe the bill unnecessarily duplicates existing federal programs and other protections in the water sector. I strongly urge you to exclude water utilities from the DHS program, as we are excluded under current law.

Including the water sector in this legislation is unnecessary because that duplicates numerous existing federal, state, and local requirements. It would undoubtedly raise water and sewer bills throughout your district and around the country, without delivering commensurate protection or value to our communities. Moreover, as written, the bill could adversely impact the treatment and delivery of safe drinking water in many communities.

I believe Congress's 2006 decision to exclude the water sector from the chemical security bill was justified and appropriate. Among other things:

- Water utilities are not "chemical facilities" in the general meaning of that term.
- Water utilities operate in the public interest and provide an essential service, not a product.
- Water utilities are generally instrumentalities of local government and are subject to extensive economic and other regulation by politically accountable local officials.
- Water utilities use certain chemicals only because they are necessary for water or wastewater disinfection, in order to provide vital public health and environmental benefits.
- Water utilities maintain only such volumes of hazardous chemicals on-site as may be necessary to ensure that they can meet their public health and environmental protection obligations, with some assurance that they can continue to operate in the face of a supply interruption.
- Water utilities are already subject to extensive regulation under the Safe Drinking Water Act, the Clean Water Act, the Clean Air Act, the Emergency Planning and Community Right to Know Act, the Public Health Protection and Bioterrorism Preparedness and Response Act, OSHA standards, and various state and local regulations, to ensure the safe management of hazardous chemicals.
- Water utilities are subject to the Clean Air Act's Risk Management Program and are required to maintain offsite emergency response plans for a chemical release from natural disaster, terrorism, or other causes.
- All water systems serving more than 3,300 people have been required to prepare Vulnerability Assessments and Emergency Response plans, and to submit the Vulnerability Assessments to EPA. Most water systems undertake periodic

reassessments and have made security improvements to address any vulnerabilities identified. And

- The water sector has undertaken extensive training and technical assistance efforts on homeland security, has worked with DHS to organize the Water Sector Coordinating Council, has organized and operates a WaterISAC (information sharing and analysis center), and is developing standards for physical security upgrades using the American National Standards Institute (ANSI) standards development process.

Finally, several provisions in the current bill are completely unworkable for water utilities. For example, allowing a federal official to order the use of different treatment chemicals or changes in water treatment processes could create serious unintended public health consequences. Drinking water treatment decisions, including the choice of disinfectant, are made in consideration of important local factors including source water chemistry, and must remain a local decision. In addition, giving a federal official the authority to order the cessation of water or sewer service in any community is unworkable, and the fines and penalties in the bill are completely inappropriate for agencies of local government.

For these and other reasons, I urge you to ensure that water and wastewater utilities are affirmatively excluded from the chemical security bill. If you have specific concerns about homeland security and the water sector, I would be happy to discuss them with you and to consider addressing them outside the bill as now written.

Thank you for your considering my views. I look forward to working with you to remedy these and other concerns.

Sincerely,

## Members of the House Homeland Security Committee

Committee Chair Bennie Thompson (D-MS) 202-225-5876	<a href="http://benniethompson.house.gov/HoR/MS02/Contact+Bennie/">http://benniethompson.house.gov/HoR/MS02/Contact+Bennie/</a>
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Lamar Smith (R-TX)	<a href="http://lamarsmith.house.gov/contact.aspx?section=Mail">http://lamarsmith.house.gov/contact.aspx?section=Mail</a>

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