

National Association of Clean Water Agencies • Association of Metropolitan Water
Agencies • WaterReuse Association • Water Environment Federation •
California Association of Sanitation Agencies •
Association of California Water Agencies

June 11, 2009

The Honorable Nancy Pelosi
Speaker of the House
House of Representatives
Washington, D.C. 20515

Dear Speaker Pelosi:

The undersigned organizations representing wastewater and drinking water utilities throughout the nation, write to express our concerns with jurisdictional conflicts arising over reauthorization of the Chemical Facilities Anti-Terrorism Act (CFAT) with respect to drinking water and wastewater utilities. If these conflicts are not resolved, we believe that security at drinking water and wastewater facilities will potentially be placed at greater risk.

Over the last several months, we have communicated with the House Homeland Security Committee, Energy and Commerce Committee, and Transportation and Infrastructure Committee setting forth our concerns over the prospect of multiple Federal agencies regulating chemical security at drinking water and wastewater treatment plants. We have urged the Committees to draft legislation that places both drinking water and wastewater facilities under one security program at a single federal agency. We believe this approach is the only way to ensure the highest level of security at these facilities while avoiding duplicative and overly burdensome regulatory regimes that will lead to increased costs to taxpayers with no appreciable public benefit.

However, we understand that the House Committee on Homeland Security intends to assert jurisdiction over chemical security at wastewater treatment utilities when it marks-up a CFATS reauthorization bill on June 18 for the program administered by the Department of Homeland Security (DHS). On May 20, the House Committee on Energy and Commerce released draft legislation entitled the Drinking Water System Security Act which proposes a regulatory regime for security at drinking water facilities under the Environmental Protection Agency (EPA), per an agreement between HS Chairman Bennie Thompson and E&C Chairman Henry Waxman. To date, there has been no similar agreement between Chairman Thompson and T&I Chairman James Oberstar, though we understand that Mr. Oberstar intends to introduce separate wastewater security legislation as early as this week. We believe that wastewater treatment utilities should be placed under

the jurisdictional authority of the EPA and its security program along with drinking water utilities.

If wastewater utilities are regulated under a CFATS program at DHS while drinking water utilities are regulated under a security program at EPA, separate security programs for water supply and wastewater treatment operators will be in place, thereby creating duplication of efforts, increased costs to ratepayers, and compliance mandates for two Federal programs without any discernible public benefit. The problematic nature of this approach is best crystallized by the example of water and wastewater utilities that are jointly owned and managed by a single entity. Under separate federal agency authorities, these facilities would face the prospect of being regulated by two different federal agencies for the same policy purpose. Indeed, we believe a splintered federal regulatory oversight approach will result in greater security vulnerabilities at wastewater and drinking water systems vis-à-vis intentional acts of terrorism.

Therefore, we ask your assistance and support in our efforts to sort out these jurisdictional issues. Specifically, we ask your support that wastewater treatment utilities be granted an exemption from the CFATS program at DHS with the understanding that these utilities will be placed under the jurisdictional authority of the EPA and its security program, along with drinking water utilities. We also request that the Committee on Transportation and Infrastructure receive a jurisdictional referral on the CFATS reauthorization bill in order to appropriately incorporate wastewater utilities into the overall House legislative package on chemical security.

We appreciate your consideration and assistance with this matter. If you have any questions or wish to discuss this matter further, please contact Patricia Sinicopi, Legislative Director of the National Association of Clean Water Agencies at 202-833-2672.

Sincerely,




Ken Kirk
Executive Director
National Association of Clean Water Agencies



Wade Miller
Executive Director
WaterReuse Association



Diane VanDe Hei
Executive Director
Association of Metropolitan Water Agencies



Bill Bertera
Executive Director
Water Environment Federation



Catherine Smith
Executive Director
California Association of Sanitation Agencies



Tim Quinn
Executive Director
Association of California Water Agencies

Cc:

Chairman James L. Oberstar, House Transportation and Infrastructure Committee

Chairman Bennie G. Thompson, House Homeland Security Committee

Chairman Henry A. Waxman, House Energy and Commerce Committee

Ranking Member John L. Mica, House Transportation and Infrastructure Committee

Ranking Member Peter T. King, House Homeland Security Committee

Ranking Member Joe Barton, House Energy and Commerce Committee

Administrator Lisa Jackson, U.S. Environmental Protection Agency