



March 9, 2012

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**RE: Planned Release of Non-OCA data via the Internet**

Dear Mrs. Jackson:

As representatives of the Nation's drinking water and wastewater community, we were very disturbed to learn of EPA's plan to re-establish Internet access to the non-Off-site Consequence Analysis (OCA) sections of Risk Management Plans. This announcement from the Office of Emergency Management (OEM), dated December 7, 2011, cites the burden of complying with Freedom of Information Act (FOIA) requests and a need for the FBI and others to have greater access to non-OCA data as the principle reasons the Agency is proposing this change in data handling.

We find it ironic that in an April 2000 report from EPA and the Department of Justice (DOJ)<sup>1</sup> the agencies noted that the release of such information via the Internet can help advance terrorist ends in an environment that provides complete anonymity. We do not believe that this interest, intent, or capability to leverage the Internet to support malevolent acts has waned in the ensuing years. In addition, the report notes that "many terrorist organizations are Internet savvy", and that savvy has only increased with technology advances over the past 12 years. Given this acknowledgement in 2000 and the continued and ongoing threat from terrorist organizations per Department of Homeland Security notices, we are highly skeptical of EPA's plan. We believe a thorough review and consideration of the post-

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<sup>1</sup> EPA and DOJ. 2000. Assessment of the increased risk of Terrorist of Other Criminal Activity Associated with Posting of Off-Site Consequence Analysis Information on the Internet. April 18, 2000.

9/11 threat environment will show that releasing this sensitive information would constitute a threat to National security.

Equally important is the inclusion of facility safety measures in the non-OCA dataset, specifically, the section on preventative programs. It is not clear how this information came to be reclassified as non-OCA, since the 2000 report by EPA-DOJ labels this information as “data that would be salient to a terrorist for purposes of causing a chemical release”. This data indexes the active and passive mitigation measures installed at a facility. We believe that anonymous and open sharing of such information via the Internet as proposed will serve to further enable those seeking to cause harm. This data could be used to prioritize targets based on the type of mitigation measures and thereby inform perpetrators of the actions necessary to thwart designed protection measures.

In terms of the claim that the FBI and others need access to this information, we would remind the Agency that this is already required under several sections of the following:

- Clean Air Act §112(r) requires entities to provide all Risk Management Plan information to local first responders and response planners;
- Emergency Planning and Community Right-to-Know Act §301-303 requires certain entities to coordinate emergency response plans with state and local emergency planning commissions; and,
- P.L. 109-295 §550(c) provides for sharing of sensitive chemical facility security information with law enforcement officials and first responders.

We do not believe that satisfying information needs of other government entities supports putting such sensitive information on full view to the world. Surely technological advances have enabled the government to make the information available on a secure platform available only to personnel with a need to know.

Finally, in terms of the FOIA burden, we point back to the 2000 analysis which notes that the “more personal contact that is required to obtain information, the less likely it is that someone seeking to misuse the information will attempt to obtain it.” The Internet provides anonymity that undermines the intent of protecting this information from being openly disseminated. We support the current approach for managing access to both OCA and non-OCA which allows an appropriate level of transparency.

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We strongly discourage the Agency from proceeding with this planned release of sensitive data and would welcome the opportunity to meet with you to discuss our concerns.

Best regards,

Thomas W. Curtis  
Deputy Executive Director  
American Water Works Association

Jeff Eger  
Executive Director  
Water Environment Federation

Rob Johnson  
Chief Executive Officer  
National Rural Water Association

Michael Deane  
Executive Director  
National Association of Water Companies

Ken Kirk  
Executive Director  
National Association of Clean Water  
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Timothy Quinn  
Executive Director  
Association of California Water Agencies

cc: Robert Perciasepe – EPA  
Mathy Stanislaus – EPA/OSWER  
Larry Stanton – EPA/OSWER/OEM  
Nancy Stoner – EPA/OW  
Cynthia Dougherty – EPA/OGWDW  
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