

110TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**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;

24                  “(2) to implement security enhancements de-  
25 scribed in subsection (c)(1) and other security en-

1       hancements to reduce vulnerabilities identified in a  
2       vulnerability assessment;

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

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

14      “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

15              “(1) PREAPPROVED SECURITY ENHANCE-  
16      MENTS.—On certification by a State, municipality,  
17      intermunicipal or interstate agency, or privately  
18      owned utility that principally treats municipal waste-  
19      water that a vulnerability assessment has been com-  
20      pleted for a treatment works, and that the security  
21      enhancement for which assistance is sought is for  
22      the purpose of reducing vulnerabilities of the treat-  
23      ment works identified in the vulnerability assess-  
24      ment, the Administrator may provide grants to the  
25      State, municipality, intermunicipal or interstate

1 agency, or privately owned utility under subsection  
2 (b)(2) for 1 or more of the uses described in para-  
3 graph (2).

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

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; and

11          “(4) treatment technologies, including the af-  
12          fordability, effectiveness, and limitations of each  
13          treatment technology.

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