

American Water Works Association.txt

Subject: AWWA comments
Date: Thu, 12 Jun 2003 18:07:08 -0400
From: "Alan Roberson" <aroberso@awwa.org>
To: "RegComments, CII" <CII.RegComments@HQ.DHS.GOV>

Enclosed are AWWA's comments on the April 15th proposal for protection of confidential infrastructure information. A paper copy is also being mailed.

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American Water Works Association
The Authoritative Resource for Safe Drinking Water (SM)

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June 12, 2003

Associate General Counsel (General Law)
Department of Homeland Security
Washington, DC 20528

Re: Proposal for Procedures for Handling Critical Infrastructure Information

To Counsel:

The American Water Works Association is pleased to have the opportunity to comment on the procedures for handling critical infrastructure information as proposed in the April 15th *Federal Register* (68 FR 18524). The AWWA is the largest technical and educational association for drinking water utilities, and water is one of the critical infrastructure sectors as defined in Presidential Decision Directive 63 (PDD-63). The AWWA is an international, nonprofit, scientific and educational society dedicated to the improvement of drinking water quality and supply. Founded in 1881, the Association is the largest organization of water supply professionals in the world. Our 57,000 plus members represent the full spectrum of the drinking water community: treatment plant operators and managers, environmental advocates, scientists, academicians, and others who hold a genuine interest in water supply and public health. Our membership includes more than 4,700 utilities that supply roughly 80 percent of the nation's drinking water.

The AWWA is working closely with the Environmental Protection Agency (EPA) on the implementation of the Public Health Security Bioterrorism Preparedness and Response Act of 2002 (The Bioterrorism Act). AWWA continues to provide security training and education to meet the needs of its members. AWWA was selected as one of the organizations to provide training in the Risk Assessment Methodology for Water (RAM-W) and has conducted 22 three-day classes that have trained over 1,000 utilities and their consultants in this methodology.

AWWA generally supports (with one important exception) the procedures for handling critical infrastructure information that is voluntarily submitted to the Department of Homeland Security (DHS) as proposed in the April 15th *Federal Register* notice. The proposed definitions and procedures appear to provide adequate protection with one important exception. If the final determination is such that the critical information is not Protected Critical Infrastructure Information (CII), then AWWA recommends that this information automatically be destroyed in accordance with the Federal Records Act and the submitter be informed of such destruction. While Section 29.6 of the proposal includes a process for informing the submitter if the final determination is not Protected CII, AWWA does not support the option for the Program Manager to retain this information "for law enforcement and/or national security reasons" because it would still NOT be classified as Protected CII. This vague justification for retention of voluntarily submitted information is not acceptable. If the Program Manager determines that any

voluntarily submitted information should be retained “for law enforcement and/or national security reasons”, then it should be designated Protected CII and provided full protection. Any infrastructure information that is voluntarily submitted to DHS should either be designated Protected CII and get full protection, or this information should be destroyed in accordance with the Federal Records Act and the submitter duly informed.

However, it should be pointed out that we anticipate that little, if any, critical drinking water infrastructure information will be voluntarily submitted to DHS. Under the Bioterrorism Act, drinking water utilities are required to complete the following five activities:

1. Conduct a vulnerability assessment (VA);
2. Certify that the VA has been completed;
3. Submit a paper copy of the VA to EPA;
4. Develop or revise their emergency response plan to reflect the VA; and
5. Certify that the revised emergency response plan has been completed.

The paper copy of the VA and the two certifications must be submitted to EPA. Section 29.3 (a) of this proposal clearly addresses required submissions—“The CII Act of 2002 and these procedures do not apply to or affect any requirements pertaining to information that must be submitted to a Federal agency ...”

EPA has developed a robust protection protocol for the protection of the paper copies of the VA. While issues such as potential transfer of these VAs to DHS and the long-term handling of these paper copies need to be addressed, we are generally supportive of EPA’s actions to date to protect the paper copies of the VA. However, AWWA recommends that the utility be notified if any information from these VAs is shared with (or if these VAs are transferred to) any other federal agencies such as DHS. Again, based on the requirements of the Bioterrorism Act, we anticipate that little, if any, critical drinking water infrastructure information will be voluntarily submitted to DHS. Therefore, we anticipate that this proposal will have limited, if any, impact on the voluntary submission of critical drinking water infrastructure information to DHS.

If you have any questions on these comments, please feel free to call me or Alan Roberson in our Washington Office.

Yours Sincerely,

Thomas W. Curtis
Deputy Executive Director

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