

[DISCUSSION DRAFT]

1 **TITLE __—SECURITY AT**
2 **COVERED WATER SYSTEMS**

3 **SEC. __01. SHORT TITLE.**

4 This title may be cited as the “Drinking Water Sys-
5 tem Security Act of 2009”.

6 **SEC. __01. INTENTIONAL ACTS AFFECTING THE SECURITY**
7 **OF COVERED WATER SYSTEMS.**

8 (a) AMENDMENT OF SAFE DRINKING WATER ACT.—
9 Section 1433 of the Safe Drinking Water Act (42 U.S.C.
10 300i–2) is amended to read as follows:

11 **“SEC. 1433. INTENTIONAL ACTS.**

12 “(a) RISK-BASED PERFORMANCE STANDARDS; VUL-
13 NERABILITY ASSESSMENTS; SITE SECURITY PLANS.—

14 “(1) IN GENERAL.—The Administrator shall
15 issue regulations—

16 “(A) establishing risk-based performance
17 standards for the security of covered water sys-
18 tems; and

19 “(B) establishing requirements and dead-
20 lines for each covered water system—

21 “(i) to conduct a vulnerability assess-
22 ment or, if the system already has a vul-

1 vulnerability assessment, to revise the assess-
2 ment to be in accordance with this section;

3 “(ii) to update the vulnerability as-
4 sessment not less than every 5 years and
5 also promptly after any change at the sys-
6 tem that could cause the reassignment of
7 the system to a different tier under para-
8 graph (7);

9 “(iii) to develop, implement, and, as
10 appropriate, revise a site security plan not
11 less than every 5 years or whenever re-
12 quired by a revision in the vulnerability as-
13 sessment;

14 “(iv) to develop and, as appropriate,
15 revise an emergency response plan not less
16 than every 5 years; and

17 “(v) to provide annual training to em-
18 ployees of covered water systems on imple-
19 menting the site security plan and emer-
20 gency response plan.

21 “(2) COVERED WATER SYSTEMS.—For purposes
22 of this section, the term ‘covered water system’
23 means a public water system that—

24 “(A) is a community water system serving
25 a population greater than 3,300; or

1 “(B) in the discretion of the Adminis-
2 trator, presents a security risk making regula-
3 tion under this section appropriate.

4 “(3) CONSULTATION WITH STATE AUTHORI-
5 TIES.—In developing and carrying out the regula-
6 tions under paragraph (1), the Administrator shall
7 consult with States exercising primary responsibility
8 for public water systems, as appropriate, regard-
9 ing—

10 “(A) designation of roles and responsibil-
11 ities of the Administrator and the State au-
12 thorities in carrying out the requirements of
13 this section; and

14 “(B) such other matters as the Adminis-
15 trator determines necessary.

16 “(4) CONSULTATION WITH OTHER PERSONS.—
17 In developing and carrying out the regulations under
18 paragraph (1), the Administrator shall consult with
19 the Secretary of Homeland Security, and other per-
20 sons, as appropriate, regarding—

21 “(A) provision of threat-related and other
22 baseline information to covered water systems;

23 “(B) designation of substances of concern;

24 “(C) development of risk-based perform-
25 ance standards;

1 “(D) establishment of risk-based tiers and
2 assignment of covered water systems to risk-
3 based tiers;

4 “(E) development and evaluation of vulner-
5 ability assessments, site security plans, and
6 emergency response plans;

7 “(F) treatment of protected information;

8 “(G) security at co-located drinking water
9 and wastewater facilities; and

10 “(H) such other matters as the Adminis-
11 trator determines necessary.

12 “(5) SUBSTANCES OF CONCERN.—For purposes
13 of this section, the Administrator, in consultation
14 with the Secretary of Homeland Security—

15 “(A) may designate any chemical sub-
16 stance as a substance of concern;

17 “(B) at the time any substance is des-
18 ignated pursuant to subparagraph (A), shall es-
19 tablish by rule a threshold quantity for the re-
20 lease or theft of the substance, taking into ac-
21 count the toxicity, reactivity, volatility,
22 dispersability, combustibility, and flammability
23 of the substance and the amount of the sub-
24 stance which, as a result of a release, is known
25 to cause or may be reasonably anticipated to

1 cause death, injury, or serious adverse effects to
2 human health or the environment; and

3 “(C) in making such a designation, shall
4 take into account Appendix A of part 27 of title
5 6, Code of Federal Regulations (or any suc-
6 cessor regulations).

7 “(6) BASELINE INFORMATION.—The Adminis-
8 trator, after consultation with appropriate depart-
9 ments and agencies of the Federal Government and
10 with State and local governments, shall, for purposes
11 of facilitating compliance with the requirements of
12 paragraph (7), provide baseline information to cov-
13 ered water systems regarding which kinds of inten-
14 tional acts are the probable threats to—

15 “(A) substantially disrupt the ability of the
16 system to provide a safe and reliable supply of
17 drinking water;

18 “(B) cause the release of a substance of
19 concern at the covered water system; or

20 “(C) cause the theft, misuse, or misappro-
21 priation of a substance of concern.

22 “(7) REGULATION CONTENTS.—

23 “(A) RISK-BASED PERFORMANCE STAND-
24 ARDS.—The regulations under paragraph (1)
25 shall establish risk-based performance stand-

1 ards for inclusion in site security plans required
2 by this section. The standards shall be separate
3 and, as appropriate, increasingly stringent
4 based on the level of risk associated with the
5 covered water system's tier assignment under
6 subparagraph (D). In developing such stand-
7 ards, the Administrator shall take into account
8 part 27 of title 6, Code of Federal Regulations
9 (or any successor regulations).

10 “(B) VULNERABILITY ASSESSMENT.—The
11 regulations under paragraph (1) shall require
12 each covered water system to assess the sys-
13 tem's vulnerability to a range of intentional
14 acts, including an intentional act that results in
15 a release of a substance of concern that is
16 known to cause or may be reasonably antici-
17 pated to cause death, injury, or serious adverse
18 effects to human health or the environment. At
19 a minimum, the vulnerability assessment shall
20 include a review of—

21 “(i) pipes and constructed convey-
22 ances;

23 “(ii) physical barriers;

1 “(iii) water collection, pretreatment,
2 treatment, storage, and distribution facili-
3 ties;

4 “(iv) electronic, computer, and other
5 automated systems that are used by the
6 covered water system;

7 “(v) the use, storage, or handling of
8 various chemicals, including substances of
9 concern;

10 “(vi) the operation and maintenance
11 of the covered water system; and

12 “(vii) the covered water system’s resil-
13 iency and ability to ensure continuity of
14 operations in the event of a disruption
15 caused by an intentional act.

16 “(C) ESTABLISHMENT OF RISK-BASED
17 TIERS.—The regulations under paragraph (1)
18 shall provide for at least 4 risk-based tiers ap-
19 plicable to covered water systems, with tier one
20 representing the highest degree of security risk.

21 “(D) ASSIGNMENT OF RISK-BASED
22 TIERS.—

23 “(i) SUBMISSION OF INFORMATION.—
24 The Administrator may require a covered
25 water system to submit information, in-

1 including the quantities of substances of con-
2 cern that a covered water system possesses
3 or plans to possess, in order to determine
4 the appropriate risk-based tier for the cov-
5 ered water system.

6 “(ii) FACTORS TO CONSIDER.—The
7 Administrator shall assign (and reassign
8 when necessary) each covered water system
9 to one of the risk-based tiers established
10 pursuant to subparagraph (C). In assign-
11 ing a covered water system to a risk-based
12 tier, the Administrator shall consider the
13 potential consequences (such as death, in-
14 jury, or serious adverse effects to human
15 health, the environment, critical infrastruc-
16 ture, national security, the national econ-
17 omy, and public welfare) from—

18 “(I) an intentional act to cause
19 the release of a substance of concern
20 at the covered water system;

21 “(II) an intentional act to intro-
22 duce a contaminant into the drinking
23 water supply or disrupt the safe and
24 reliable supply of drinking water; and

1 “(III) an intentional act to steal,
2 misappropriate, or misuse substances
3 of concern.

4 “(E) EXPLANATION FOR TIER ASSIGN-
5 MENT.—The Administrator shall provide each
6 covered water system assigned to a risk-based
7 tier with the reasons for the tier assignment. In
8 making the assignment, the Administrator also
9 shall inform the covered water system if it is re-
10 quired to submit an assessment under para-
11 graph (8)(B).

12 “(F) DEVELOPMENT AND IMPLEMENTA-
13 TION OF SITE SECURITY PLANS.—The regula-
14 tions under paragraph (1) shall permit each
15 covered water system, in developing and imple-
16 menting its site security plan required by para-
17 graph (1)(B)(iii), to select layered security
18 measures that, in combination, appropriately—

19 “(i) address the risks identified in its
20 vulnerability assessment; and

21 “(ii) comply with the applicable risk-
22 based performance standards under para-
23 graph (1)(A).

24 “(G) ROLE OF EMPLOYEES.—

1 “(i) DESCRIPTION OF ROLE.—Secu-
2 rity vulnerability assessments or site secu-
3 rity plans required under this section shall
4 describe the appropriate roles or respon-
5 sibilities that employees are expected to
6 perform to deter or respond to the inten-
7 tional acts described in clause (ii) of sub-
8 paragraph (D).

9 “(ii) TRAINING FOR EMPLOYEES.—
10 Each covered water system shall annually
11 provide employees with roles or responsibil-
12 ities described in clause (i) with a min-
13 imum of 8 hours of training on carrying
14 out those roles or responsibilities.

15 “(iii) EMPLOYEE PARTICIPATION.—In
16 developing, revising, or updating the vul-
17 nerability assessment and site security plan
18 required under this section, a covered
19 water system shall include—

20 “(I) at least one supervisory and
21 at least one non-supervisory employee
22 of the covered water system; and

23 “(II) at least one representative
24 of each certified or recognized bar-
25 gaining agent, if any, in a collective

1 bargaining relationship with the pri-
2 vate or public owner or operator of
3 the system.

4 “(8) METHODS TO REDUCE THE CON-
5 SEQUENCES OF A CHEMICAL RELEASE FROM AN IN-
6 TENTIONAL ACT.—

7 “(A) DEFINITION.—In this section, the
8 term ‘method to reduce the consequences of a
9 chemical release from an intentional act’ means
10 a measure at a covered water system that re-
11 duces or eliminates the potential consequences
12 of a release of a substance of concern from an
13 intentional act such as—

14 “(i) the elimination, or reduction in
15 the amount, of a substance of concern pos-
16 sessed or planned to be possessed by a cov-
17 ered water system through the use of alter-
18 nate substances, formulations, or proc-
19 esses;

20 “(ii) the modification of pressures,
21 temperatures, or concentrations of a sub-
22 stance of concern; and

23 “(iii) the reduction or elimination of
24 onsite handling of a substance of concern

1 through improvement of inventory control
2 or chemical use efficiency.

3 “(B) ASSESSMENT.—For each covered
4 water system that possesses or plans to possess
5 a substance of concern in excess of the release
6 threshold set by the Administrator under para-
7 graph (5), the regulations under paragraph (1)
8 shall require the covered water system to in-
9 clude in its site security plan an assessment of
10 methods to reduce the consequences of a chem-
11 ical release from an intentional act at the cov-
12 ered water system. The covered water system
13 shall provide such assessment to the Adminis-
14 trator and the State exercising primary enforce-
15 ment authority over the covered water system,
16 if any. The regulations under paragraph (1)
17 shall require the system, in preparing the as-
18 sessment, to consider factors appropriate to the
19 system’s security, public health, or environ-
20 mental mission, including—

21 “(i) a description of the methods to
22 reduce the consequences of a chemical re-
23 lease from an intentional act;

24 “(ii) how each described method to re-
25 duce the consequences of a chemical re-

1 lease from an intentional act could, if ap-
2 plied, reduce the potential extent of death,
3 injury, or serious adverse effects to human
4 health resulting from a chemical release;

5 “(iii) how each described method to
6 reduce the consequences of a chemical re-
7 lease from an intentional act could, if ap-
8 plied, affect the presence of contaminants
9 in treated water, human health, or the en-
10 vironment;

11 “(iv) whether each described method
12 to reduce the consequences of a chemical
13 release from an intentional act at the cov-
14 ered water system is technically feasible, as
15 defined under section 1412(b)(4)(D), but
16 not including cost calculations under clause
17 (v);

18 “(v) the costs (including capital and
19 operational costs) and avoided costs (in-
20 cluding savings and liabilities) associated
21 with applying each described method to re-
22 duce the consequences of a chemical re-
23 lease from an intentional act at the covered
24 water system;

1 “(vi) any other relevant information
2 that the covered water system considered
3 in conducting the assessment; and

4 “(vii) a statement of whether the cov-
5 ered water system has implemented or
6 plans to implement one or more methods
7 to reduce the consequences of a chemical
8 release from an intentional act, a descrip-
9 tion of any such methods, and, in the case
10 of a covered water system described in sub-
11 paragraph (C)(i), an explanation of the
12 reasons for any decision to not implement
13 any such methods.

14 “(C) REQUIRED METHODS.—

15 “(i) APPLICATION.—This subpara-
16 graph applies to a covered water system—

17 “(I) that is assigned to one of
18 the highest-risk tiers under paragraph
19 (7)(D); and

20 “(II) that possesses or plans to
21 possess a substance of concern in ex-
22 cess of the release threshold set by the
23 Administrator under paragraph (5).

24 “(ii) HIGHEST-RISK SYSTEMS.—If, on
25 the basis of its assessment under subpara-

1 graph (B), a covered water system de-
2 scribed in clause (i) decides not to imple-
3 ment methods to reduce the consequences
4 of a chemical release from an intentional
5 act, the State exercising primary enforce-
6 ment authority over the covered water sys-
7 tem, if the system is located in such a
8 State, or the Administrator, if the covered
9 water system is not located in such a
10 State, shall determine whether to require
11 the covered water system to implement the
12 methods.

13 “(iii) STATE OR ADMINISTRATOR’S
14 CONSIDERATIONS.—Before requiring, pur-
15 suant to clause (ii), the implementation of
16 a method to reduce the consequences of a
17 chemical release from an intentional act,
18 the State exercising primary enforcement
19 authority over the covered water system, if
20 the system is located in such a State, or
21 the Administrator, if the covered water
22 system is not located in such a State, shall
23 consider factors appropriate to the secu-
24 rity, public health, and environmental mis-

1 sions of covered water systems, including
2 an examination of whether the method—

3 “(I) would significantly reduce
4 the risk of death, injury, or serious
5 adverse effects to human health re-
6 sulting directly from a chemical re-
7 lease from an intentional act at the
8 covered water system;

9 “(II) would not increase the in-
10 terim storage of a substance of con-
11 cern by the covered water system;

12 “(III) would not render the sys-
13 tem unable to comply with other re-
14 quirements of this Act; and

15 “(IV) could feasibly be incor-
16 porated into the operation of the cov-
17 ered water system.

18 “(D) DEFICIENT ASSESSMENTS.—If the
19 Administrator identifies significant deficiencies
20 in the preparation or submission of an assess-
21 ment described in subparagraph (B), the Ad-
22 ministrator shall inform the covered water sys-
23 tem and the State exercising primary enforce-
24 ment responsibility over the covered water sys-
25 tem, if any, and require the covered water sys-

1 tem to submit a revised assessment addressing
2 the identified deficiencies not later than 60
3 days after the Administrator notifies the system
4 of such deficiencies. The State exercising pri-
5 mary enforcement authority over the covered
6 water system, if the system is located in such
7 a State, or the Administrator, if the system is
8 not located in such a State, shall review the re-
9 vised assessment and determine whether the
10 covered water system will be required to imple-
11 ment methods to reduce the consequences of an
12 intentional act pursuant to subparagraph (C).

13 “(E) ENFORCEMENT.—

14 “(i) FAILURE BY STATE TO MAKE DE-
15 TERMINATION.—Whenever the Adminis-
16 trator finds that a State exercising pri-
17 mary enforcement authority over a covered
18 water system has failed to determine
19 whether to require the covered water sys-
20 tem to implement methods to reduce the
21 consequences of a chemical release from an
22 intentional act, as required by subpara-
23 graph (C)(ii), the Administrator shall so
24 notify the State. If, beyond the thirtieth
25 day after the Administrator’s notification

1 under the preceding sentence, the State
2 has failed to make the determination de-
3 scribed in such sentence, the Administrator
4 shall so notify the State and may deter-
5 mine whether to require the covered water
6 system to implement methods to reduce
7 the consequences of a chemical release
8 from an intentional act.

9 “(iii) FAILURE BY STATE TO BRING
10 ENFORCEMENT ACTION.—If, on the basis
11 of information available to the Adminis-
12 trator, the Administrator finds, with re-
13 spect to a period in which a State has pri-
14 mary enforcement responsibility for a cov-
15 ered water system, that the system has
16 failed to implement methods to reduce the
17 consequences of a chemical release from an
18 intentional act (as required by the State
19 under subparagraph (C)(ii) or the Admin-
20 istrator under clause (i)) the Administrator
21 shall so notify the State and the covered
22 water system. If, beyond the thirtieth day
23 after the Administrator’s notification
24 under the preceding sentence, the State
25 has not commenced appropriate enforce-

1 ment action, the Administrator shall so no-
2 tify the State and may commence an en-
3 forcement action against the system, in-
4 cluding by seeking civil penalties under
5 subsection (k), to require implementation
6 of such methods.

7 “(b) REVIEW BY ADMINISTRATOR.—

8 “(1) IN GENERAL.—The regulations under sub-
9 section (a)(1) shall require each covered water sys-
10 tem to submit its vulnerability assessment and site
11 security plan to the Administrator for review. The
12 Administrator shall review each vulnerability assess-
13 ment and site security plan submitted under this
14 section to identify any significant deficiencies and
15 shall require covered water systems to correct the
16 deficiencies so identified.

17 “(2) STATE, REGIONAL, OR LOCAL GOVERN-
18 MENTAL ENTITIES.—No covered water system shall
19 be required under State or local law to provide a vul-
20 nerability assessment or site security plan described
21 in this section to any State, regional, or local gov-
22 ernmental entity solely by reason of the requirement
23 set forth in paragraph (1) that the system submit
24 such an assessment and plan to the Administrator.

25 “(c) EMERGENCY RESPONSE PLAN.—

1 “(1) IN GENERAL.—Each covered water system
2 shall prepare or revise, as appropriate, an emergency
3 response plan that incorporates the results of the
4 system’s most current vulnerability assessment and
5 site security plan.

6 “(2) CERTIFICATION.—Each covered water sys-
7 tem shall certify to the Administrator that the sys-
8 tem has completed an emergency response plan. The
9 system shall submit such certification to the Admin-
10 istrator not later than 6 months after the system’s
11 first completion or revision of a vulnerability assess-
12 ment under subsection (a)(1)(B)(i) and shall submit
13 an additional certification upon any updating of the
14 emergency response plan.

15 “(3) CONTENTS.—A covered water system’s
16 emergency response plan shall include—

17 “(A) plans, procedures, and identification
18 of equipment that can be implemented or uti-
19 lized in the event of an intentional act at the
20 covered water system; and

21 “(B) actions, procedures, and identification
22 of equipment that can obviate or significantly
23 lessen the impact of intentional acts on the
24 public health and the safety and supply of

1 drinking water provided to communities and in-
2 dividuals.

3 “(4) COORDINATION.—As part of its emergency
4 response plan, each covered water system shall pro-
5 vide appropriate information to any local emergency
6 planning committee, local law enforcement officials,
7 and emergency response providers to ensure an ef-
8 fective, collective response.

9 “(d) MAINTENANCE OF RECORDS.—Each covered
10 water system shall maintain an updated copy of its vulner-
11 ability assessment, site security plan, and emergency re-
12 sponse plan.

13 “(e) AUDIT; INSPECTION.—Notwithstanding section
14 1445(b)(2), the Administrator may audit and inspect cov-
15 ered water systems for purposes of determining compli-
16 ance with subsections (a), (b), (c), and (d).

17 “(f) ASSISTANCE.—The Administrator may make
18 funds available to covered water systems to defray the cost
19 of complying with the requirements of this section and im-
20 plementing other security reviews and enhancements.
21 Such funding shall be available for such purposes as—

22 “(1) defraying costs associated with the adop-
23 tion or use of a method to reduce the consequences
24 of a chemical release from an intentional act;

1 “(2) completing the covered water system’s first
2 vulnerability assessment (or update thereof), site se-
3 curity plan, or emergency response plan (or update
4 thereof) required under subsection (a); or

5 “(3) implementing any other security enhance-
6 ment necessary to comply with this section.

7 “(g) PROTECTION OF INFORMATION.—

8 “(1) PROHIBITION OF PUBLIC DISCLOSURE OF
9 PROTECTED INFORMATION.—Protected information,
10 as described in paragraph (7) and provided to the
11 Administrator by the covered water system or cre-
12 ated by the Administrator under the requirements of
13 this section, shall—

14 “(A) be exempt from disclosure under sec-
15 tion 552 of title 5, United States Code; and

16 “(B) not be made available pursuant to
17 any State or local law requiring disclosure of in-
18 formation or records.

19 “(2) INFORMATION SHARING.—The Adminis-
20 trator shall—

21 “(A) facilitate and provide standards for
22 the appropriate sharing of protected informa-
23 tion with and between Federal, State, local, and
24 tribal authorities, first responders, law enforce-
25 ment officials, designated supervisory and non-

1 supervisory covered water system personnel
2 with security, operational, or fiduciary responsi-
3 bility for the system, and designated facility
4 employee representatives, if any; and

5 “(B) set penalties for the unlawful sharing
6 of protected information.

7 “(3) TREATMENT OF INFORMATION IN ADJU-
8 DICATIVE PROCEEDINGS.—In a proceeding under
9 this section, protected information, as described in
10 paragraph (7), shall be treated in any judicial or ad-
11 ministrative action in a manner consistent with the
12 treatment of Sensitive Security Information under
13 section 525 of the Department of Homeland Secu-
14 rity Appropriations Act, 2007 (Public Law 109–295;
15 120 Stat. 1321).

16 “(4) OTHER OBLIGATIONS UNAFFECTED.—
17 Nothing in this section amends or affects an obliga-
18 tion, under any other law, of a covered water system
19 to submit or make available information to system
20 employees, employee organizations, or a Federal,
21 State, tribal, or local government agency under, or
22 otherwise to comply with, any other law.

23 “(5) CONGRESSIONAL OVERSIGHT.—Nothing in
24 this section permits or authorizes the withholding of

1 information from Congress or any committee or sub-
2 committee thereof.

3 “(6) DISCLOSURE OF INDEPENDENTLY FUR-
4 NISHED INFORMATION.—Nothing in this section
5 amends or affects any authority or obligation of a
6 Federal, State, or local agency to protect or disclose
7 any record or information that the Federal, State, or
8 local agency obtains from a covered water system or
9 the Administrator under any other law.

10 “(7) PROTECTED INFORMATION.—

11 “(A) IN GENERAL.—For purposes of this
12 section, protected information is any of the fol-
13 lowing:

14 “(i) Security vulnerability assessments
15 and site security plans submitted to the
16 Administrator under this section.

17 “(ii) Documents directly related to the
18 Administrator’s review of assessments and
19 plans described in clause (i) and, as appli-
20 cable, the State’s review of an assessment
21 prepared under subsection (a)(8)(B).

22 “(iii) Documents directly related to
23 inspections and audits under this section.

24 “(iv) Orders, notices, or letters re-
25 garding the compliance of a covered water

1 system with the requirements of this sec-
2 tion.

3 “(v) Information provided to or cre-
4 ated by the Administrator under subpara-
5 graphs (D) and (E) of subsection (a)(7).

6 “(vi) Other information developed ex-
7 clusively for the purposes of this section
8 that the Administrator determines would
9 be detrimental to the security of one or
10 more covered water systems if disclosed.

11 “(B) DETRIMENT REQUIREMENT.—For
12 purposes of clauses (ii), (iii), (iv), and (v) of
13 subparagraph (A), the only portions of docu-
14 ments, records, orders, notices, and letters that
15 shall be considered protected information are
16 those portions that—

17 “(i) would be detrimental to the secu-
18 rity of one or more covered water systems
19 if disclosed; and

20 “(ii) are developed by the Adminis-
21 trator or the covered water system exclu-
22 sively for the purposes of this section.

23 “(C) EXCLUSIONS.—For purposes of this
24 section, protected information does not in-
25 clude—

1 “(i) information that is otherwise pub-
2 licly available, including information that is
3 required to be made publicly available
4 under any law;

5 “(ii) information that a covered water
6 system has lawfully disclosed other than in
7 accordance with this section; and

8 “(iii) information that, if disclosed,
9 would not be detrimental to the security of
10 one or more covered water systems, includ-
11 ing aggregate regulatory data that the Ad-
12 ministrator deems appropriate to describe
13 system compliance with the requirements
14 of this section and the Administrator’s im-
15 plementation of such requirements.

16 “(h) RELATION TO CHEMICAL SECURITY REQUIRE-
17 MENTS.—Title I of the Chemical Security Antiterrorism
18 Act of 2009 (and any regulations promulgated there-
19 under) shall not apply to any public water system subject
20 to this Act.

21 “(i) PREEMPTION.—This section does not preclude or
22 deny the right of any State or political subdivision thereof
23 to adopt or enforce any regulation, requirement, or stand-
24 ard of performance with respect to a covered water system

1 that is more stringent than a regulation, requirement, or
2 standard of performance under this section.

3 “(j) VIOLATIONS.—

4 “(1) IN GENERAL.—Whenever the Adminis-
5 trator determines that a covered water system has
6 violated, or is in violation of, any requirement of this
7 section or has failed or is failing to address any defi-
8 ciencies in its vulnerability assessment, site security
9 plan, or any deficiencies in implementation of its site
10 security plan by such date as the Administrator de-
11 termines to be appropriate, the Administrator, after
12 consultation with the State for covered water sys-
13 tems located in States exercising primary responsi-
14 bility for those covered water systems, may—

15 “(A) after notice and an opportunity for
16 the covered water system to be heard, issue an
17 order assessing an administrative penalty for
18 any past or current violation, requiring compli-
19 ance immediately or within a specified time pe-
20 riod, or both; or

21 “(B) after notice and an opportunity for
22 the covered water system to be heard, com-
23 mence a civil action in the United States dis-
24 trict court in the district in which the violation

1 occurred for appropriate relief, including tem-
2 porary or permanent injunction.

3 “(2) CIVIL PENALTIES.—Pursuant to an order
4 issued under paragraph (1)(A) or in a civil action
5 commenced under paragraph (1)(B), the Adminis-
6 trator or the court, as applicable, may impose a civil
7 penalty of not more than \$25,000 for each day on
8 which a violation occurs or a failure to comply con-
9 tinues.

10 “(k) ANNUAL REPORT TO CONGRESS.—

11 “(1) ANNUAL REPORT.—Not later than one
12 year after the date of the enactment of this section,
13 and annually thereafter, the Administrator shall sub-
14 mit to the Committee on Energy and Commerce of
15 the House of Representatives and the Committee on
16 Environment and Public Works of the Senate a re-
17 port on progress in achieving compliance with this
18 section. Each such report at minimum shall include
19 the following:

20 “(A) A generalized summary of measures
21 implemented by covered water systems in order
22 to meet each risk-based performance standard
23 established by this section.

24 “(B) A quantitative summary of how the
25 covered water systems, differentiated by tier as-

1 signment, are complying with the requirements
2 of this section during the period covered by the
3 report and how the Administrator is imple-
4 menting and enforcing such requirements dur-
5 ing such period including—

6 “(i) the number of public water sys-
7 tems that provided the Administrator with
8 information pursuant to subsection
9 (a)(7)(D);

10 “(ii) the number of covered water sys-
11 tems assigned to each tier;

12 “(iii) the number of security vulner-
13 ability assessments and site security plans
14 submitted by covered water systems;

15 “(iv) the number of security vulner-
16 ability assessments and site security plans
17 approved and disapproved by the Adminis-
18 trator;

19 “(v) the number of covered water sys-
20 tems without approved security vulner-
21 ability assessments or site security plans;

22 “(vi) the number of covered water sys-
23 tems that have been assigned to a different
24 tier due to implementation of a method to

1 reduce the consequences of a chemical re-
2 lease from an intentional act;

3 “(vii) the number of orders for com-
4 pliance issued by the Administrator;

5 “(viii) the administrative penalties as-
6 sessed by the Administrator for non-com-
7 pliance with the requirements of this sec-
8 tion;

9 “(ix) the civil penalties assessed by
10 the court for non-compliance with the re-
11 quirements of this section; and

12 “(x) any other regulatory data the
13 Administrator determines appropriate to
14 describe covered water system compliance
15 with the requirements of this section and
16 the Administrator’s implementation of
17 such requirements.

18 “(2) PUBLIC AVAILABILITY.—A report sub-
19 mitted under this section shall be made publicly
20 available.

21 “(1) WORKER TRAINING GRANTS PROGRAM AUTHOR-
22 ITY.—

23 “(1) IN GENERAL.—The Administrator shall es-
24 tablish a grant program to award grants to eligible
25 entities to provide for training and education of em-

1 employees with roles or responsibilities described in
2 **【revised】 【subsection (a)(7)(G)(i)】**, first responders,
3 and emergency response providers.

4 “(2) ADMINISTRATION.—The Administrator
5 shall enter into an agreement with the National In-
6 stitute of Environmental Health Sciences to make
7 and administer grants or cooperative agreements
8 under this section.

9 “(3) USE OF FUNDS.—The recipient of a grant
10 under this subsection shall use the grant to provide
11 for training and education of employees with roles or
12 responsibilities described in **【revised】 【subsection**
13 **(a)(7)(G)(i)】**, including—

14 “(A) the annual mandatory training speci-
15 fied in **【revised】 【subsection (a)(7)(G)(ii)】**;
16 and

17 “(B) appropriate training for first re-
18 sponders and emergency response providers.

19 “(4) ELIGIBLE ENTITIES.—For purposes of this
20 subsection, an eligible entity is a nonprofit organiza-
21 tion with demonstrated experience in implementing
22 and operating successful worker or first responder
23 health and safety training programs.

1 “(m) AUTHORIZATION OF APPROPRIATIONS.—To
2 carry out this section, there are authorized to be appro-
3 priated—

4 “(1) \$190,000,000 for fiscal year 2011, of
5 which up to \$30,000,000 may be used for adminis-
6 trative costs incurred by the Administrator; and

7 “(2) such sums as may be necessary for fiscal
8 years 2012 through 2015.”.

9 (b) REGULATIONS; TRANSITION.—

10 (1) REGULATIONS.—Not later than 2 years
11 after the date of the enactment of this title, the Ad-
12 ministrator of the Environmental Protection Agency
13 shall promulgate final regulations to carry out sec-
14 tion 1433 of the Safe Drinking Water Act, as
15 amended by subsection (a).

16 (2) EFFECTIVE DATE.—Until the effective date
17 of the regulations promulgated under paragraph (1),
18 section 1433 of the Safe Drinking Water Act, as in
19 effect on the day before the date of the enactment
20 of this title, shall continue to apply.

21 (3) SAVINGS PROVISION.—If an administrative
22 or judicial proceeding for a violation of section 1433
23 of the Safe Drinking Water Act is brought before
24 the effective date of the regulations promulgated
25 under paragraph (1)—

1 (A) the amendment made by subsection (a)
2 shall not affect such proceeding; and

3 (B) the requirements of section 1433, as in
4 effect on the date of commencement of the pro-
5 ceeding, shall continue to apply to the violation
6 until the violation has been corrected.