



June 7, 2013

The Honorable Michael McCaul
Chairman
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

Dear Chairman McCaul:

The Water Information Sharing and Analysis Center (WaterISAC) and the Association of Metropolitan Water Agencies (AMWA) appreciate the opportunity to provide comments and feedback on the draft “National Cybersecurity and Critical Infrastructure Protection (NCCIP) Act of 2013.” We believe protecting the nation’s critical infrastructure against cyber attacks is essential, and we are eager to collaborate with you to address cybersecurity threats.

WaterISAC, developed pursuant to Homeland Security Presidential Directive 7, gathers, analyzes and disseminates water security information to a network of nearly 12,000 members across the United States. AMWA is an organization of the nation’s largest publicly owned drinking water utilities, collectively providing clean, safe drinking water to more than 130 million Americans from Alaska to Puerto Rico.

We are grateful the proposal reflects your remarks earlier this year at AMWA’s Water Policy Conference promising that any new cybersecurity legislation you put before the Homeland Security Committee would not include heavy-handed regulations for critical infrastructure operators. We also appreciate that the draft legislation would formalize the role of the respective ISACs as the primary information sharing entity for each critical infrastructure sector and would authorize funding to facilitate the participation of ISACs in the National Cybersecurity and Communications Integration Center (NCCIC).

WaterISAC and AMWA offer the following suggestions to modify the legislation’s Title II to ensure information sharing mechanisms operate in the most effective and efficient manner.

Further, we endorse the comments on the draft legislation by the National Council of ISACs and urge that the bill recognize the Council. The Council is an integral member of the homeland security partnership. Not only does it serve as a coordinating body, but it provides a forum and the expertise necessary for addressing challenges related to cross-sector interdependencies.

All page and line numbers referenced below reflect the May 22, 2013, 12:55 pm draft of the bill:

- On page 11, lines 11-14, the bill defines a “private entity” as “any individual or any private company, utility, organization, or corporation, including an officer, employee, or agent thereof.” The vast majority of water and wastewater systems throughout the country (including all of AMWA’s members) are publicly owned and operated, and this language appears to exclude them from participating in certain activities authorized in the bill, such as entering into information sharing activities with the NCCIC, participating in the “see something, say something” initiative, and receiving technical assistance from their Sector Coordinating Council (SCC). *The bill should specify that publicly owned utilities are in fact covered under the definition of “private entity.”*
- On page 17, lines 4-5, the proposal indicates that SCCs are communications entities. As with most sectors, the water sector’s communications and operations arm is the ISAC. *The bill should make clear that recognized ISACs will be the primary mechanisms for communications on operational matters.*
- The amended Sec. 226(e) of the Homeland Security Act of 2002 (beginning on page 18, line 15 of the NCCIP Act) requires DHS to designate an official ISAC for each critical infrastructure sector. Today, most of the 16 existing critical infrastructure sectors have an operational ISAC, but nothing in the proposal would require DHS to recognize these existing information sharing organizations as their sector’s “official” ISAC under the bill. *The NCCIP Act should require DHS to designate an existing ISAC as its sector’s official ISAC for the purposes of this bill, provided that the ISAC meets criteria established by the National Council of ISACs.*
- On page 20, lines 1-3, the bill requires official sector ISACs to “provide risk mitigation and cyber incident response capabilities for members within the critical infrastructure sector.” Whether the bill uses “members” to mean members of the ISACs or critical infrastructure owners and operators within the sector is not clear. If the latter is intended, the provision would be problematic for many ISACs, including WaterISAC. As a non-profit organization whose federal funding has ended, WaterISAC operates solely on dues from members. If WaterISAC were required to provide specific services to all water and wastewater systems across the country – regardless of their membership status – WaterISAC would need a sufficient level of appropriated federal support. *The bill should either offer federal financial support to help ISACs provide services to their entire sector or limit required services to only an ISAC’s actual membership.*
- The “see something, say something” initiative on page 36 would be a valuable source of cyber threat information. However, the proposed legislation leaves no role for the sector ISACs, which have close working relationships with owners and operators in their sectors. Not only is it important that ISACs receive cyber threat and incident information, in general, but many owners and operators will not share such information directly with the government. *The policies and procedures to be established by DHS should be developed*

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in collaboration with the National Council of ISACs and should encourage threat information sharing with ISACs. We also believe the bill should provide for the protection of the information shared.

Again, WaterISAC and AMWA appreciate the opportunity to provide feedback on this important legislation. Going forward, we would welcome the opportunity to share additional details on the state of cybersecurity in the water sector, the information sharing capabilities of WaterISAC, and our thoughts on future versions of the NCCIP Act.

Please feel free to contact us for additional information. We look forward to working with you.

Sincerely,



Diane VanDe Hei
Executive Director
Water Information Sharing and Analysis Center
Association of Metropolitan Water Agencies