

May 3, 2021

Senators add drinking water cybersecurity provision to infrastructure bill

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EPA and the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) would be required to collaborate on a new effort to improve the cybersecurity posture of select drinking water systems, under a provision that was added to the Drinking Water and Wastewater Infrastructure Act (S. 914 (<https://www.congress.gov/bill/117th-congress/senate-bill/914>)) prior to its approval by the Senate last week.

The legislation's substitute amendment

(<https://www.congress.gov/117/crec/2021/04/27/167/72/CREC-2021-04-27-pt1-PgS2229-3.pdf>) approved by senators prior to the bill's final passage included language to add a new "Cybersecurity Support for Public Water Systems" section to the Safe Drinking Water Act. The provisions would require EPA and CISA to:

- Develop a "prioritization framework" to identify public water systems that "if degraded or rendered inoperable due to an incident, would lead to significant impacts on the health and safety of the public";
- Develop a Technical Cybersecurity Support Plan that would identify public water systems in need of prioritized cybersecurity support and establish timelines for making voluntary technical support available to specific systems; and
- Report to Congress on the framework and the support plan, including "a list describing any public water systems identified . . . as needing technical support for cybersecurity during development of the Support Plan."

The language was added to the bill at the behest

(<https://www.hsgac.senate.gov/media/majority-media/senate-passes-peters-provision-to-bolster-cybersecurity-of-public-water-systems>) of leaders of the Senate's Homeland Security and Governmental Affairs Committee, which has long had an interest in

establishing a role for DHS in the oversight of the physical and cybersecurity of drinking water systems. While the new provision stops short of imposing any new regulatory requirements on water systems, its inclusion in the Senate-approved bill indicates that drinking water cybersecurity will remain a topic of discussion on Capitol Hill in the coming months.

The cybersecurity language added to S. 914 appears to be somewhat incomplete, as AMWA staff have identified a number of provisions or definitions that lack clarity. The association plans to remain engaged with congressional staff as the topic continues to be addressed going forward.

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