

National Rural Water Association

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TO: Chairman Inhofe
FROM: Mike Keegan and John Montgomery
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SUBJECT: Wastewater Treatment Works Security Act of 2003 (S. 1039)

On behalf of the over 22,000 small and rural communities in the National Rural Water Association, we are writing in support of The Wastewater Treatment Works Security Act of 2003.

The approach in S. 1039 recognizes the axiom that in order to progress drinking and wastewater security in small communities is more of a RESOURCE problem than a REGULATORY problem. Every community wants to provide safe water and conduct all security measures to protect their water supplies and communities.

The bill takes the right approach for long-term progress by promoting local support, local education, and available resources. Ensuring the best possible security protection in small communities means; (1) ensuring that limited resources are allocated in the most effective manner and (2) locally-elected leaders support security plans.

As you know, small communities have limited resources and can least afford to implement security measures. Unlike large communities, a thousand dollar expenditure can be a major expense for the smallest of communities. Small communities often can't afford the cost of an expert security consultant and have to rely on education and technical assistance to enhance their security plans.

At the same time, security experts have concluded that the unique characteristics and vulnerabilities of small communities should make them a priority security concern for the federal government – and recent events around the country seem to confirm this advice. We all agree that local government has the primary role and responsibility of ensuring a secure water supply. Small communities will take the necessary measures to protect their water, however, they need common-sense assistance in a form they can understand – as recognized in the Wastewater Treatment Works Security Act of 2003.

We appreciate your inclusion of technical assistance for small communities to complete vulnerability assessments. This is the most effective way for the federal government to protect small wastewater systems without overburdening the capabilities and resources of small local government. Your legislation will encourage local communities to take responsibility for the protection of their wastewater systems – local support is critical for long-term success of security efforts. Funding an approach supported by the small communities will ensure that funding quickly gets out into the field, provides tangible results, and assists small communities in a useful manner. We believe that with a small portion of the EPA security funding directed to technical assistance, every small communities' wastewater system vulnerability assessment could be completed within

six months to a year. Small communities are already taking steps to protect their water and federal funding should be used to enhance progressive local actions. Additional technical assistance, as authorized in your legislation, would ensure immediate implementation of these vulnerability assessments.

Many interest groups petition your Committee to take a different approach; to authorize more and more ever-stringent federal unfunded mandates on small communities with the intention of improving public health on the communities' behalf. Unfortunately, this does not work and things aren't that simple for clear reasons.

- Small and rural communities are self governing, non-profit organizations. They are not businesses, they have no incentive not take all security actions possible, since they own and operate the water supply and their families drink the local water. The problem that occurs under a regulatory approach is that it forces the adoption of uniform standards. This results in unintended consequences forcing many communities to spend limited resources on actions they don't see as improving their security at the expense of more important security actions that are unique to their communities.
- More regulations won't help poor communities that can't afford the current regulatory regime, much less a new set of regulatory hurdles. Every small community faces unlimited challenges and needs - with limited financial, administrative, and technical resources -- and they need to ensure these resources are most effectively allocated. Regardless of how much direction Congress includes with their laws for EPA to consider the ability of low-income populations to afford regulations – the mandate for EPA to publish uniform rules forces the misallocation of local resources in low-income communities. This problem is exacerbated by EPA's administrative policy that families can afford annual water rates of 2.5% of median household income (MHI) or \$1000 per household. Consumer advocates have demonstrated that low income families and communities can't afford such rates. Also, this decision did not adequately consider the ability of low-income and rural populations to afford the rule as required by the Agency's Environmental Justice policy.
- Without the support of local people, no amount of regulations alone will protect their water. Successful security plans rely on local responsibility. Only local experts (police, mayors, councils, city managers, long-term community leaders, etc.) can identify every vulnerability in a community. Some vulnerabilities can be as specific as where an extra set of keys is hanging – and the possibilities are infinite. Can a regulation result in local responsibility? The key for long-term security is the have the people that benefit from security plans take responsibility for them, support them, and pay for them.

A federal framework for enhancing security should not start by putting everyone under a regulatory scope and making them prove (comply) their way out of the scope. It should provide resources and identify on an ad-hoc basis specific cases of local officials not living up their public responsibilities. After such identification, the local political process would work faster and more economically at correcting deficiencies than a federal civil enforcement action. Plus, the local process promotes local responsibility for protecting their resources.

The idea that communities will not take action without a mandate has been widely disproved with documentation in rural water's 2003 Report to Congress (www.ruralwater.org/report2003). Last year:

- 6,601 communities voluntarily complied with drinking water standards,
- 1,285 improved the quality of their drinking water for concerns not covered by regulations,
- 5,917 adopting groundwater protection plans as “recommended” by EPA without the threat of an enforcement action, and
- hundreds of small communities (263 recorded on an internet model) have conducted a security vulnerability assessment over a year before mandated by the Bioterrorism Act of 2002.

Regarding the chemical safety legislation, rural America needs your help. We urge you not to treat small local communities like chemical companies. We would be grateful for your support in exempting local governments (drinking water and wastewater utilities) from this legislation.

Providing EPA with the authority to fine small town officials (often local volunteers, teachers, mayors, doctors, retired citizens, farmers, etc) thousands of dollars a day for not complying with regulations designed for chemical companies fails to recognize the fundamental differences between the chemical companies and small local governments. Local governments (water and wastewater systems) are owned and operated by local consumers – the people who we are trying to protect. They have no profit incentives like businesses. By their very nature, they strive to take every possible action to protect consumers -- themselves.

As you consider the chemical safety legislation, please also remember that some versions of the legislation are duplicative of the recently passed Bioterrorism Act of 2002. All community water systems serving over 3,300 people are already required by section 1433 of Title XIV of the Public Health Service Act (the provisions of the Bioterrorism Act) to conduct vulnerability assessments and to prepare or revise emergency response plans. Utilities across the nation are now developing these assessments. Requiring them to undergo another, duplicative round of assessing and planning under the new legislations will only divert current progress being made at the local level.

Thank you for considering the exceptional circumstances of small communities. Please contact us with any questions.