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## **Terrorism and Security Issues Facing the Water Infrastructure Sector**

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# Terrorism and Security Issues Facing the Water Infrastructure Sector

## Summary

Damage to or destruction of the nation's water supply and water quality infrastructure by terrorist attack could disrupt the delivery of vital human services in this country, threatening public health and the environment, or possibly causing loss of life. Interest in such problems has increased greatly since the September 11, 2001, terrorist attacks in New York City and at the Pentagon.

Across the country, water infrastructure systems extend over vast areas, and ownership and operation responsibility are both public and private but are overwhelmingly non-federal. Since the attacks, federal dam operators and water and wastewater utilities have been under heightened security conditions and are evaluating security plans and measures. There are no federal standards or agreed-upon industry best practices within the water infrastructure sector to govern readiness, response to security incidents, and recovery. Efforts to develop protocols and tools are ongoing since the 2001 terrorist attacks. This report presents an overview of this large and diverse sector, describes security-related actions by the government and private sector since September 11, and discusses additional policy issues and responses, including congressional interest.

Policymakers are considering a number of initiatives, including enhanced physical security, better communication and coordination, and research. A key issue is how additional protections and resources directed at public and private sector priorities will be funded. In response, Congress has provided \$548 million in appropriations for security at water infrastructure facilities (to assess and protect federal facilities and support vulnerability assessments by non-federal facilities) since FY2002 and passed a bill requiring drinking water utilities to conduct security vulnerability assessments (P.L. 107-188). When Congress created the Department of Homeland Security (DHS) in 2002 (P.L. 107-297), it gave DHS responsibilities to coordinate information to secure the nation's critical infrastructure, including the water sector. Recent interest has focused on bills concerning security of wastewater utilities (H.R. 866, S. 1039 in the 108<sup>th</sup> Congress). Continuing attention to these issues in the 109<sup>th</sup> Congress is anticipated, along with interest in how the federal government coordinates its own activities and communicates policies and information to the water infrastructure sector. This report will be updated as warranted.

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# Terrorism and Security Issues Facing the Water Infrastructure Sector

## Introduction

The September 11, 2001, attacks on the World Trade Center and the Pentagon have drawn attention to the security of many institutions, facilities, and systems in the United States, including the nation's water supply and water quality infrastructure. These systems have long been recognized as being potentially vulnerable to terrorist attacks of various types, including physical disruption, bioterrorism/chemical contamination, and cyber attack. Damage or destruction by terrorist attack could disrupt the delivery of vital human services in this country, threatening public health and the environment, or possibly causing loss of life. Further, since most water infrastructure is government-owned, it may serve as a symbolic and political target for some. This report presents an overview of this large and diverse sector, describes security-related actions by the government and private sector since September 11, and discusses additional policy issues and responses, including congressional interest.

The potential for terrorism is not new. In 1941, Federal Bureau of Investigation Director J. Edgar Hoover wrote, "It has long been recognized that among public utilities, water supply facilities offer a particularly vulnerable point of attack to the foreign agent, due to the strategic position they occupy in keeping the wheels of industry turning and in preserving the health and morale of the American populace."<sup>1</sup> Water infrastructure systems also are highly linked with other infrastructures, especially electric power and transportation, as well as the chemical industry which supplies treatment chemicals, making security of all of them an issue of concern. These types of vulnerable interconnections were evident, for example, during the August 2003 electricity blackout in the Northeast United States: wastewater treatment plants in Cleveland, Detroit, New York, and other locations that lacked backup generation systems lost power and discharged millions of gallons of untreated sewage during the emergency, and power failures at drinking water plants led to boil-water advisories in many communities.

## Background

Broadly speaking, water infrastructure systems include surface and ground water sources of untreated water for municipal, industrial, agricultural, and household needs; dams, reservoirs, aqueducts, and pipes that contain and transport raw water; treatment facilities that remove contaminants from raw water; finished water

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<sup>1</sup> Hoover, J.E. "Water Supply Facilities and National Defense." *Journal of the American Water Works Association*. Vol. 33, no. 11 (1941): 1861.

reservoirs; systems that distribute water to users; and wastewater collection and treatment facilities. Across the country, these systems comprise approximately 77,000 dams and reservoirs; thousands of miles of pipes, aqueducts, water distribution, and sewer lines; 168,000 public drinking water facilities (many serving as few as 25 customers); and about 16,000 publicly owned wastewater treatment facilities. Ownership and management are both public and private; the federal government has ownership responsibility for hundreds of dams and diversion structures, but the vast majority of the nation's water infrastructure is either privately owned or owned by non-federal units of government.

The federal government has built hundreds of water projects, primarily dams and reservoirs for irrigation development and flood control, with municipal and industrial water use as an incidental, self-financed, project purpose. Many of these facilities are critically entwined with the nation's overall water supply, transportation, and electricity infrastructure. The largest federal facilities were built and are managed by the Bureau of Reclamation (Bureau) of the Department of the Interior and the U.S. Army Corps of Engineers (Corps) of the Department of Defense.

Bureau reservoirs, particularly those along the Colorado River, supply water to millions of people in southern California, Arizona, and Nevada via Bureau and non-Bureau aqueducts. Bureau projects also supply water to 9 million acres of farmland and other municipal and industrial water users in the 17 western states. The Corps operates 276 navigation locks, 11,000 miles of commercial navigation channel, and approximately 1,200 projects of varying types, including 609 dams. It supplies water to thousands of cities, towns, and industries from the 9.5 million acre-feet of water stored in its 116 lakes and reservoirs throughout the country, including service to approximately one million residents of the District of Columbia and portions of northern Virginia. The largest Corps and Bureau facilities also produce enormous amounts of power. For example, Hoover and Glen Canyon dams on the Colorado River represent 23% of the installed electrical capacity of the Bureau of Reclamation's 58 power plants in the West and 7% of the total installed capacity in the Western United States. Similarly, Corps facilities and the Bureau's Grand Coulee Dam on the Columbia River provide 43% of the total installed hydroelectric capacity in the West (25% nationwide). Still, despite its critical involvement in such projects, especially in the West, the federal government is responsible for only about 5% of the dams whose failure could result in loss of life or significant property damage. The remaining dams belong to state or local governments, utilities, and corporate or private owners.

A fairly small number of large drinking water and wastewater utilities located primarily in urban areas (about 15% of the systems) provide water services to more than 75% of the U.S. population. Arguably, these systems represent the greatest targets of opportunity for terrorist attacks, while the large number of small systems that each serve fewer than 10,000 persons are less likely to be perceived as key targets by terrorists who might seek to disrupt water infrastructure systems. However, the more numerous smaller systems also tend to be less protected and, thus, are potentially more vulnerable to attack, whether by vandals or terrorists. A successful attack on even a small system could cause widespread panic, economic impacts, and a loss of public confidence in water supply systems.

Attacks resulting in physical destruction to any of these systems could include disruption of operating or distribution system components, power or telecommunications systems, electronic control systems, and actual damage to reservoirs and pumping stations. A loss of flow and pressure would cause problems for customers and would hinder firefighting efforts. Further, destruction of a large dam could result in catastrophic flooding and loss of life. Bioterrorism or chemical attacks could deliver widespread contamination with small amounts of microbiological agents or toxic chemicals, and could endanger the public health of thousands. While some experts believe that risks to water systems actually are small, because it would be difficult to introduce sufficient quantities of agents to cause widespread harm, concern and heightened awareness of potential problems are apparent. Factors that are relevant to a biological agent's potential as a weapon include its stability in a drinking water system, virulence, culturability in the quantity required, and resistance to detection and treatment. Cyber attacks on computer operations can affect an entire infrastructure network, and hacking in water utility systems could result in theft or corruption of information or denial and disruption of service.

## **Responses to Security Concerns**

Water infrastructure system designers, managers, and operators have long made preparing for extreme events a standard practice. Historically, their focus has been on natural events — major storms, blizzards, and earthquakes — some of which could be predicted hours or longer before they occurred. When considering the risk of manmade threats, operators generally focused on purposeful acts such as vandalism or theft by disgruntled employees or customers, rather than broader malevolent threats by terrorists, domestic or foreign. The events of September 11, 2001, changed this focus.

Federal dam operators went on “high-alert” immediately following the September 11 terrorist attacks. The Bureau closed its visitor facilities at Grand Coulee, Hoover, and Glen Canyon dams. Because of potential loss of life and property downstream if breached, security threats are under constant review, and coordination efforts with both the National Guard and local law enforcement officials are ongoing. The Corps also operates under continued high defense alert and temporarily closed all its facilities to visitors after September 11, although locks and dams remained operational; most closed facilities later re-opened, but security is being reassessed. Following a heightened alert issued by the federal government in February 2003, the Bureau implemented additional security measures which remain in effect at dams, powerplants, and other facilities, including limited access to facilities and roads, closure of some visitor centers, and random vehicle inspections.

Although officials believe that risks to water and wastewater utilities are small, operators have been under heightened security conditions since September 11. Local utilities have primary responsibility to assess their vulnerabilities and prioritize them for necessary security improvements. Most (especially in urban areas) have emergency preparedness plans that address issues such as redundancy of operations, public notification, and coordination with law enforcement and emergency response officials. However, many plans were developed to respond to natural disasters, domestic threats such as vandalism, and, in some cases, cyber attacks. Drinking

water and wastewater utilities coordinated efforts to prepare for possible Y2K impacts on their computer systems on January 1, 2000, but these efforts focused more on cyber security than physical terrorism concerns. Thus, it was unclear whether previously existing plans incorporate sufficient procedures to address other types of terrorist threats. Utility officials are reluctant to disclose details of their systems or these confidential plans, since doing so might alert terrorists to vulnerabilities.

Water supply was one of eight critical infrastructure systems identified in President Clinton's 1998 Presidential Decision Directive 63 (PDD-63)<sup>2</sup> as part of a coordinated national effort to achieve the capability to protect the nation's critical infrastructure from intentional acts that would diminish them. These efforts focused primarily on the 340 large community water supply systems which each serve more than 100,000 persons. The Environmental Protection Agency (EPA) was identified as the lead federal agency for liaison with the water supply sector. In response, in 2000, EPA established a partnership with the American Metropolitan Water Association (AMWA) and American Water Works Association (AWWA) to jointly undertake measures to safeguard water supplies from terrorist acts. AWWA's Research Foundation has contracted with the Department of Energy's Sandia National Laboratory to develop a vulnerability assessment tool for water systems (as an extension of methodology for assessing federal dams). EPA is supporting an ongoing project with the Sandia Lab to pilot test the physical vulnerability assessment tool and develop a cyber vulnerability assessment tool. An Information Sharing and Analysis Center (ISAC) supported by an EPA grant became operational under AMWA's leadership in December 2002. It will allow for dissemination of alerts to drinking water and wastewater utilities about potential threats or vulnerabilities to the integrity of their operations that have been detected and viable resolutions to problems.<sup>3</sup>

Some research on water sector infrastructure protection is underway. The Department of the Army is conducting research in the area of detection and treatment to remove various chemical agents. The Federal Emergency Management Agency (FEMA) is leading an effort to produce databases of water distribution systems and to develop assessment tools for evaluating threats posed by the introduction of a biological or chemical agent into a water system. The Centers for Disease Control and Prevention is developing guidance on potential biological agents and the effects of standard water treatment practices on their persistence. However, in the January 2001 report of the President's Commission on Critical Infrastructure Protection, ongoing water sector research was characterized as a small effort that leaves a number of gaps and shortfalls relative to U.S. water supplies.<sup>4</sup> This report stated that gaps exist in four major areas, concerns that remain relevant and are guiding policymakers now.

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<sup>2</sup>"The Clinton Administration's Policy on Critical Infrastructure Protection: Presidential Decision Directive 63." May 22, 1998. See [<http://www.fas.org/irp/offdocs/paper598.htm>].

<sup>3</sup>For additional information, see [<http://www.waterisac.org/>].

<sup>4</sup> Critical Infrastructure Assurance Office. *Report of the President of the United States on the Status of Federal Critical Infrastructure Protection Activities*. January 2001. 209 p. See [<http://www.iwar.org.uk/cip/resources/ciao/final-ciao.pdf>].

- Threat/vulnerability risk assessments,
- Identification and characterization of biological and chemical agents,
- A need to establish a center of excellence to support communities in conducting vulnerability and risk assessment, and
- Application of information assurance techniques to computerized systems used by water utilities, as well as the oil, gas, and electric sectors, for operational data and control operations.

Less attention has been focused on protecting wastewater treatment facilities than drinking water systems, perhaps because destruction of them likely represents more of an environmental threat (i.e., by release of untreated sewage) than a direct threat to life or public welfare. Vulnerabilities do exist, however. Large underground collector sewers could be accessed by terrorist groups for purposes of placing destructive devices beneath buildings or city streets. Pipelines can be made into weapons via the introduction of a highly flammable substance such as gasoline through a manhole or inlet. Explosions in the sewers can cause collapse of roads, sidewalks, and adjacent structures and injure and kill people nearby. Damage to a wastewater facility prevents water from being treated and can impact downriver water intakes. Destruction of containers that hold large amounts of chemicals at treatment plants could result in release of toxic chemical agents, such as chlorine gas, which can be deadly to humans if inhaled and, at lower doses, can burn eyes and skin and inflame the lungs.

Since the terrorist attacks, many water and wastewater utilities have switched from using chlorine gas as disinfection to alternatives which are believed to be safer, such as sodium hypochlorite or ultraviolet light. However, some consumer groups remain concerned that many wastewater utilities continue to use chlorine gas, including facilities that serve heavily populated areas. To prepare for potential accidental releases of hazardous chemicals from their facilities, 3,460 wastewater and drinking water utilities already are subject to risk management planning requirements under the Clean Air Act, but some observers advocate requiring federal standards to ensure that facilities using dangerous chemicals, such as wastewater treatment plants, use the best possible industry practices to reduce hazards.<sup>5</sup>

There are no federal standards or agreed-upon industry best practices within the water infrastructure sector to govern readiness, response to security incidents, and recovery. EPA is not authorized to require water infrastructure systems to implement specific security improvements or meet particular security standards. Efforts to develop voluntary protocols and tools are ongoing since the 2001 terrorist attacks. Wastewater and drinking water utility organizations are implementing computer software and training materials to evaluate vulnerabilities at large, medium, and small utility systems, and EPA has provided some grant assistance for conducting vulnerability assessments. Out of funds appropriated in January 2002 (P.L. 107-117), EPA awarded \$51 million for vulnerability assessment grants to 449 large drinking water utilities, averaging \$115,000 per utility. Out of subsequent appropriations,

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<sup>5</sup> See, for example, Environmental Defense. *Eliminating Hometown Hazards, Cutting Chemical Risks at Wastewater Treatment Facilities*. December 2003. 14 p.

EPA has been targeting grants to “train the trainers,” delivering technical assistance to organizations such as the Rural Community Assistance Program and the Water Environment Federation that, in turn, can assist and train personnel at thousands of medium and small utilities throughout the country.

With financial support from EPA, water, wastewater utility, and engineering groups have developed three security guidance documents, issued in December 2004, that cover the design of online contaminant monitoring systems, and physical security enhancements of drinking water, wastewater, and stormwater infrastructure systems. The documents provide voluntary guidelines for assisting utilities that have completed vulnerability assessments to mitigate vulnerabilities of their systems through the design, construction, operation, and maintenance of both new and existing systems.

EPA has taken a number of organizational and planning steps to strengthen water security. The agency created a National Homeland Security Research Center within the Office of Research and Development to develop the scientific foundations and tools that can be used to respond to attacks on water systems. In September 2003, it created a Water Security Division, taking over activities initiated by a Water Protection Task Force after the September 11 terrorist attacks. The office will train water utility personnel on security issues, support the WaterISAC, and implement the agency’s comprehensive research plan. Early in 2004, EPA formed an advisory group of drinking water and wastewater utilities, called the Water Security Working Group, to advise on the development of best security practices and policies for water utilities.

EPA has issued both a Water Security Research and Technical Support Action Plan, identifying critical research needs and providing an implementation plan for addressing those needs, and a Strategic Plan for Homeland Security. The Strategic Plan, which is not limited to water security concerns, identifies several mission-critical areas on which EPA intends to focus its homeland security planning: critical infrastructure protection; preparedness, response, and recovery; communication and information; protection of EPA personnel and infrastructure; and self-evaluation.

There has been criticism of some of these EPA efforts, however. A preliminary review of the Research and Action Plan by a panel of the National Research Council identified some gaps, suggested alternative priorities, and noted that the Plan is silent on the financial resources required to complete the research and to implement needed countermeasures to improve water security.<sup>6</sup> In 2003, EPA’s Inspector General issued an evaluation report on the initial Strategic Plan for Homeland Security and concluded that the agency had not outlined how resources, activities, and outputs will achieve the water security program’s goals. Moreover, the Inspector General said that EPA lacks fundamental components, such as performance measures, for monitoring program performance against goals.<sup>7</sup> EPA responded that long-term

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<sup>6</sup> National Academies Press. *A Review of the EPA Water Security Research and Technical Support Action Plan: Parts I and II*. Water Science and Technology Board. 2003.

<sup>7</sup>U.S. Environmental Protection Agency. Office of Inspector General. *EPA Needs a Better* (continued...)

objectives for critical water infrastructure protection activities could be identified in a future revised strategic plan. A second Homeland Security Strategy, issued in October 2004, updates the initial strategy principally by reflecting projected funding and resources for the next two years on EPA's strategic objectives and recognizing the evolving role of the Department of Homeland Security.<sup>8</sup>

Officials have been reassessing federal infrastructure vulnerabilities for several years. The Bureau of Reclamation's site security program is aimed at ensuring protection of the Bureau's 252 high- and significant-hazard dams and facilities and 58 hydroelectric plants. After September 11, the Bureau committed to conducting vulnerability and risk assessments at 280 high-priority facilities. Risk assessments were completed at 156 of these in FY2002 and FY2003; the remaining facilities were to be completed in FY2004. These assessments resulted in recommendations now being implemented to enhance security procedures and physical facilities, such as additional security staffing, limited vehicle and visitor access, and coordination with local law enforcement agencies. The Corps implements a facility protection program to detect, protect, and respond to threats to Corps facilities and a dam security program to coordinate security systems for Corps infrastructure. It also implements a national emergency preparedness program which assists civilian governments in responding to all regional/national emergencies, including acts of terrorism. Both agencies participate in the Interagency Committee on Dam Safety (ICODS), which is part of the National Dam Safety Program that is led by FEMA.

A February 2003 White House report<sup>9</sup> presented a national strategy for protecting the nation's critical infrastructures and identified four water sector initiatives: identify high-priority vulnerabilities and improve site security; improve monitoring and analytic capabilities; improve information exchange and coordinate contingency planning; and work with other sectors to manage unique risks resulting from interdependencies. It also proposed establishing an ISAC for information sharing among dam operators (no such ISAC has yet been created). The strategy is intended to focus national protection priorities, inform resource allocation processes, and be the basis for cooperative public and private protection actions.

**Department of Homeland Security.** The Department of Homeland Security (DHS, established in P.L. 107-297<sup>10</sup>) has a mandate to coordinate securing the nation's critical infrastructure, including water infrastructure, through partnerships with the public and private sectors. It is responsible for detailed implementation of core elements of the national strategy for protection of critical

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<sup>7</sup>(...continued)

*Strategy to Measure Changes in the Security of the Nation's Water Infrastructure.* Report No. 2003-M-00016, Sept. 11, 2003.

<sup>8</sup>U.S. Environmental Protection Agency. *Homeland Security Strategy.* October 2004. 46 p.

<sup>9</sup>The White House. Office of Homeland Security. *The National Strategy for the Physical Protection of Critical Infrastructures and Key Assets.* 90 p.

<sup>10</sup>For current information on the Department, see CRS products identified at [<http://www.congress.gov/products/browse/is-homelandsecurity.shtml>].

infrastructures. One of its tasks is to assess infrastructure vulnerabilities, an activity that wastewater and drinking water utilities have been doing since September 11, under their own initiatives and congressional mandates (P.L. 107-188, discussed below). The legislative reorganization did not transfer Corps or Bureau responsibilities for security protection of dams and other facilities or EPA's responsibilities to assist drinking water and wastewater utilities.

In December 2003, President Bush issued Homeland Security Presidential Directive/HSPD-7 which establishes a national policy for the federal government to identify, prioritize, and protect critical infrastructure as a part of homeland security.<sup>11</sup> The directive called for DHS to integrate all security efforts among federal agencies and to complete a comprehensive national plan for critical infrastructure protection by December 2004. The document superseded PDD-63, which started the process of federal protection of critical infrastructure even before the 2001 terrorist attacks.

**Coordination and Information Sharing.** The Homeland Security Department's involvement in water security concerns has been growing, although under HSPD-7, EPA continues as the lead federal agency to ensure protection of drinking water and wastewater treatment systems from possible terrorist acts and other sabotage. Since early in 2004 DHS has been preparing guidance documents on how each infrastructure sector, including water systems, can protect itself from security threats. DHS contractors visited several water utilities and asked to view pertinent information, including the utilities' vulnerability assessments. EPA sources have said that the DHS contractors may not have authority to view the vulnerability assessments, but Department officials cited HSPD-7 as giving the department authority to conduct water system inspections, because of its lead role in coordinating critical infrastructure protection. For some time, the two agencies have been working to clarify their roles in providing security to water utilities.

In the fall of 2004, water utilities formed a new 24-member group, the Water Sector Coordinating Committee, to work with federal officials. One of its functions will be as a point of contact for DHS to vet potential water security policies, allowing one-stop shopping for federal officials. Also at that time, DHS created a new information-sharing network, called the Homeland Security Information Network (HSIN). Both it and the existing WaterISAC share the goal of providing security information to water utilities, but they differ in some respects. The WaterISAC is a private, subscription service (although it receives some federal funding) that provides information to water utilities and others on security matters. The HSIN is a free, federally funded platform for information sharing. It is not limited to the water sector, and it provides no information by itself; it acts as a bulletin board where DHS, EPA, and utilities can post security-related information. Distinct from the HSIN and the WaterISAC is the Water Security Channel (WaterSC), a free service of the WaterISAC, which disseminates EPA and DHS bulletins at the request of those agencies.

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<sup>11</sup> The White House. *December 17, 2003 Homeland Security Presidential Directive / HSPD-7, Critical Infrastructure Identification, Prioritization, and Protection.*

**Appropriations.** In P.L. 107-38, the 2001 Emergency Supplemental Appropriations Act, enacted one week after September 11, Congress appropriated \$40 billion for recovery from and response to the terrorist attacks. The President allocated \$20 billion of this total (about \$30 million went to water infrastructure), and in October 2001, he requested allocation of the remaining \$20 billion to be distributed by Congress. The request included \$245 million for federal water infrastructure programs: \$30 million for security at Bureau facilities; \$139 million for security at Corps facilities; and \$45.5 million to EPA for drinking water vulnerability assessments. P.L. 107-117, the DOD and Emergency Supplemental Appropriations Act for FY2002, provided the full amounts requested for the Bureau and the Corps and increased funding for EPA, including \$91 million to strengthen security at large drinking water systems through vulnerability assessments and other non-structural security efforts.

In July 2002, Congress approved an FY2002 supplemental appropriations bill that included \$50 million more in EPA grants for vulnerability assessments by small and medium-size drinking water systems and \$108 million for security activities at Corps facilities (P.L. 107-206). However, on August 13, President Bush announced that he would not spend \$5.1 billion of contingent emergency funds in the bill, including the EPA grant and Corps funds. (For information, see CRS Report RL31406, *Supplemental Appropriations for FY2002: Combating Terrorism and Other Issues*.)

The President's FY2003 budget requested \$115 million for security at water infrastructure facilities, consisting of \$28.4 million for the Bureau; \$65 million for the Corps; and \$22 million for EPA, including \$15 million for vulnerability assessments at small and medium-size drinking water systems. Final action on appropriations for these agencies was delayed until February 2003. In P.L. 108-7, Congress appropriated \$85 million for water infrastructure security programs, approving the amounts requested for EPA and the Bureau, but \$30 million less than was requested for the Corps' facility security program. In P.L. 108-11, the FY2003 supplemental appropriations bill, Congress provided an additional \$39 million for the Corps and \$25 million for the Bureau, for increased security measures at their facilities.

For FY2004, Congress appropriated funds for water infrastructure security at levels requested by the Administration, including \$31.95 million for EPA to support utility vulnerability assessments and the WaterISAC (in P.L. 108-199), \$12.9 million for the Corps, and \$27.8 million for the Bureau (appropriations for the Bureau and the Corps are included in P.L. 108-137).<sup>12</sup>

The President's FY2005 budget requested \$66.3 million for water security, consisting of:

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<sup>12</sup> FY2004 appropriated amounts reflect a provision in P.L. 108-199 which mandated a 0.59% rescission to accounts and to each nondefense discretionary program, project and activity funded by that legislation, as well as previously enacted FY2004 appropriations acts, including P.L. 108-137.

- \$11.1 million for EPA (to support training and development of voluntary industry best practices for security; the request was \$21 million less than the FY2004 request, largely due to the completion of vulnerability assessments by drinking water utilities, which EPA has previously assisted);
- \$43.2 million for the Bureau (\$15.4 million more than was requested for FY2004), intended to fund full implementation of the agency's physical security, personnel and information security, and law enforcement program and to advance the physical hardening improvements that were identified in the Bureau's security risk assessments in FY2002; and
- \$12 million for the Corps (approximately the same as requested for FY2004) to cover non-project specific protective measures at Corps administrative buildings and other general use facilities. Also, the Corps budget requested an additional \$72 million for security measures at various specific individual water resource projects around the country.

In P.L. 108-447, the Consolidated Appropriations Act, 2005, Congress appropriated water security funds in the amounts requested for these agencies.<sup>13</sup> Appropriations for water infrastructure security have totaled \$548.4 million since the September 11 attacks.

## **Policy Issues and Congressional Responses**

Congress and other policymakers are considering a number of initiatives in this area, including enhanced physical security, communication and coordination, and research. Regarding physical security, a key question is whether protective measures should be focused on the largest water systems and facilities, where risks to the public are greatest, or on all, since small facilities may be more vulnerable. A related question is responsibility for additional steps, because the federal government has direct control over only a limited portion of the water infrastructure sector. The distributed and diverse nature of ownership (federal, non-federal government, and private) complicates assessing and managing risks, as does the reality of limited resources. The adequacy of physical and operational security safeguards is an issue for all in this sector. One possible option for federal facilities (dams and reservoirs maintained by the Bureau and the Corps) is to restrict visitor access, including at adjacent recreational facilities, although such actions could raise objections from the public. Some operators of non-federal facilities and utilities are likewise concerned. As a precaution after September 11, New York City, which provides water to 9 million consumers, closed its reservoirs indefinitely to all fishing, hiking, and boating and blocked access to some roads.

Policymakers are examining measures that could improve coordination and exchange of information on vulnerabilities, risks, threats, and responses. This is a key objective of the WaterISAC and also of the Department of Homeland Security, which includes, for example, functions of the National Infrastructure Protection Center (NIPC) of the FBI that brings together the private sector and government

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<sup>13</sup> P.L. 108-447 contained a required 0.80% rescission to accounts and to each nondefense discretionary program, project and activity funded in the legislation, including for homeland security activities.

agencies at all levels to protect critical infrastructure, especially on cyber issues. One issue of interest is how the Department is coordinating its activities with ongoing security efforts by other federal agencies and non-federal entities that operate water infrastructure systems, including its implementation of the comprehensive national plan required by Presidential Directive/HSPD-7. This issue arose in 2004 as a result of moves by DHS to carry out its mandates for assessing and protecting critical infrastructure, although EPA remains the lead federal agency for the water sector (see above discussion).

For some time, the two agencies have been working to clarify their roles in providing security to water utilities and in other areas and have negotiated agreements concerning joint research projects and coordination for specific field operations. Nevertheless, in the conference report accompanying the FY2005 Consolidated Appropriations Act, Congress directed EPA to enter into a memorandum of agreement with DHS by August 1, 2005, that will define the relationship of the two entities with regard to the protection and security of the nation. The memorandum is expected to specifically identify areas of responsibilities and the potential costs (including which entity pays, in whole or part) for meeting such responsibilities.<sup>14</sup>

This memorandum, when completed, still may not resolve the growing potential for duplication and overlap among agencies. Currently, for example, policies are being developed both by DHS and EPA, and both agencies are being assisted by separate advisory groups — the Water Sector Coordinating Committee works principally with DHS, while EPA has its own Water Security Working Group. Similarly, information sharing and dissemination even in this one sector are occurring through several different mechanisms: DHS supports the Homeland Security Information Network, while drinking water and wastewater utilities also may receive security-related advisories from two other sources, the WaterISAC and the Water Security Channel. Some have questioned the multiple advisory groups, on top of existing entities, and in particular the potential that the several mechanisms for sharing homeland security information could transmit inconsistent information and make the exchange of information more complicated, not less. Others are optimistic that the systems and groups will sort themselves out into compatible and complementary networks of information sharing, but that process could take considerable time.

Another information issue concerns the extent of EPA's ability to collect and analyze security data from water utilities, especially information in vulnerability assessments submitted under the Bioterrorism Preparedness Act (discussed below). EPA officials believe that the act permits reviewing utility submissions for overall compliance and allows aggregation of data but precludes the agency from asking for or analyzing data showing changes in security levels, as a safeguard against unintended release of such information. Others, including EPA's Inspector General, believe that EPA has the authority and responsibility to review and analyze the

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<sup>14</sup> H.Rept. 108-792, to accompany H.R. 4818, Consolidated Appropriations Act, 2005, *Congressional Record*, daily edition, Nov. 19, 2004, p. H10850.

information in order to identify and prioritize threats and to develop plans to protect drinking water supplies.

Among the research needs being addressed are tools for vulnerability and risk analysis, identification and response to biological/chemical agents, real-time monitoring of water supplies, and development of information technology. The cost of additional protections and how to pay for them are issues of interest, and policymakers continue to consider resource needs and how to direct them at public and private sector priorities. An issue of great interest to drinking water and wastewater utilities is how to pay for physical security improvements, since currently there are no federal funds dedicated to these purposes and utilities generally must pay for improvements using the same revenue or funding sources also needed for other types of capital projects.

The 107<sup>th</sup> and 108<sup>th</sup> Congresses conducted oversight on a number of these issues and considered legislation to address various policy issues, including government reorganization, and additional appropriations. In May 2002, Congress approved the Public Health Security and Bioterrorism Preparedness and Response Act (P.L. 107-288). Title IV of that act requires drinking water systems serving more than 3,300 persons to conduct vulnerability analyses and to submit the assessments to EPA. The legislation authorizes grant funding to assist utilities in meeting these requirements. (For information, see CRS Report RL31294, *Safeguarding the Nation's Drinking Water: EPA and Congressional Actions*.) Legislation authorizing the Bureau to contract with local law enforcement to protect its facilities also was enacted during the 107<sup>th</sup> Congress (P.L. 107-69).

In 2001, the House and Senate considered but did not enact legislation authorizing a six-year grant program for research and development on security of water supply and wastewater treatment systems (H.R. 3178, S. 1593). Some of the drinking water research provisions in these bills were included in the Bioterrorism Preparedness Act. In October 2002, the House approved a bill authorizing \$220 million in grants and other assistance for vulnerability assessments by wastewater treatment utilities (H.R. 5169), but the Senate did not act on a related bill (S. 3037). In the 108<sup>th</sup> Congress, legislation authorizing vulnerability assessment grants to wastewater utilities (H.R. 866, identical to H.R. 5169 in the 107<sup>th</sup> Congress) was approved by the House on May 7, 2003, by a 413-7 vote. The Senate Environment and Public Works Committee approved related legislation on May 15, 2003 (S. 1039, S.Rept. 108-149). No further action occurred, due in part to concerns expressed by some that the legislation did not require that vulnerability assessments be submitted to EPA, as is the case with drinking water assessments required by the 2002 Bioterrorism Preparedness Act. Continuing attention to these issues is anticipated during the 109<sup>th</sup> Congress, along with interest in how the federal government coordinates its own activities and communicates policies and information to the water infrastructure sector.