



# Express Opposition to H.R. 2890 (Clarke, D-MI) Homeland Security and Public Works Systems

Communications and Legislation Committee  
Item 8-4  
October 11, 2011

# Background

- In 2006, Congress directed Department of Homeland Security (DHS) to secure chemical facilities against terrorist attack
- DHS developed Chemical Facility Anti-Terrorism Standards (CFATS)
  - Established more than 300 chemicals of interest, including some used in water treatment
  - Classified chemical facilities according to risk
  - Established risk-based performance standards
  - Required site security plans
  - Protected sensitive information
  - Gave authority to cease operations for non-compliance
- Congress exempted water facilities (and others) because of duplicative laws and agency oversight

# H.R. 2890 (Clarke, D-MI)

- Amends Department of Homeland Security Appropriations Act of 2007
- Removes exemption and requires water & wastewater facilities to comply with Chemical Facility Anti-Terrorism Standards
- Delegates implementation and enforcement authority to U.S. Environmental Protection Agency

# Water System Security

- Bioterrorism Act of 2002
  - Led by U.S. Environmental Protection Agency
  - Required vulnerability assessments
  - Required emergency response plan
  - Utilities used vulnerability assessments to guide security investments
- Chlorine gas already highly regulated
  - U.S. EPA: Accidental Release Prevention/Risk Management Program
  - CalOSHA: Process Safety Management
- Metropolitan established chemical safeguards including chlorine containment

# Legislative Analysis

- 2011 Board Adopted Legislative Strategy
  - Chlorine gas as a disinfectant
  - “Continue to support legislation that accommodates local jurisdiction over the use and on-site storage of chlorine gas as a disinfectant.”
- Concerns with H.R. 2890
  - Facility shutdown provisions compromise public health and firefighting service
  - Discounts substantial security investments already made by water agencies
  - May inadvertently increase public health & safety risks in order to address security threats

# Board Options

- Option #1
  - Adopt the CEQA determination
  - Oppose H.R. 2890
- Option #2
  - Take no position at this time

# Staff Recommendation

- Option #1