



Express Opposition to S. 711 (Lautenberg, D-NJ) Secure Water Facilities Act

Communications and Legislation Committee
Item 8-8
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
- Some in Administration and Congress believe “security gap” exists and water/wastewater should be regulated

S. 711 (Lautenberg, D-NJ)

- Amends Safe Drinking Water Act & Federal Water Pollution Control Act
- Adds requirements similar to Chemical Facility Anti-Terrorism Standards (CFATS)
- Requires review & possible implementation of a “method to reduce the consequences of a chemical release from an intentional attack”
- Expands scope beyond on-site chemicals
 - Raw water conveyance, treatment, distribution, and storage
 - Supervisory Control & Data Acquisition (SCADA) system
 - Intentional contamination

Method to reduce consequences of intentional chemical release

- Primarily focused on chlorine gas
- Utilities must assess alternatives methods
- Presumption that utility will change
- Utilities have burden of proof to show that change is infeasible
- Primacy agency determines whether utility must change
- Utility can appeal determination
- Civil penalty up to \$25,000 per day if utility fails to comply

Current Water System Security

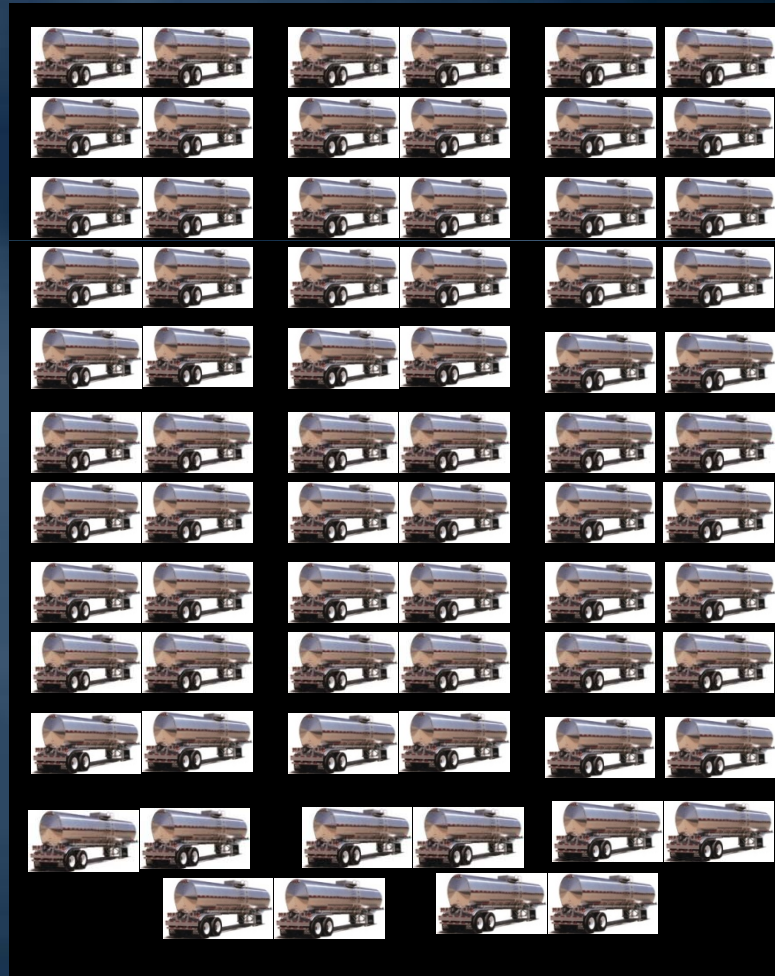
- Bioterrorism Act of 2002
 - Led by U.S. Environmental Protection Agency
 - Required vulnerability assessments
 - Required emergency response plan
 - Utilities used vulnerability assessments to guide security investments
- Chlorine gas already highly regulated
 - U.S. EPA: Accidental Release Prevention/Risk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

Alternative Chlorine Methods

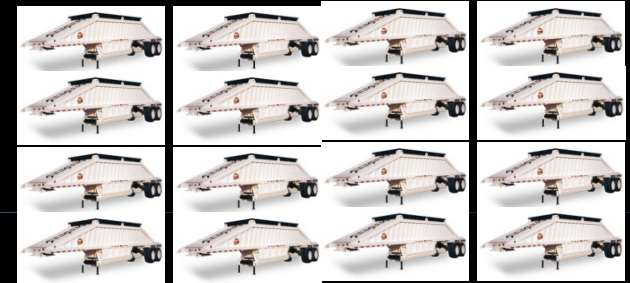
Chlorine Gas



Delivered Bleach



Generated Bleach



Sixteen 20-ton salt trailers

**2.7 million gal.
softened water**



**2.4 megawatts
electricity**



**24,000 gallons
diesel fuel**

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 S. 711
 - Utilities may be required to change water treatment processes
 - Broadly inclusive of all areas of utility operations
 - May inadvertently increase public health & safety risks in order to address security threats

Board Options

- Option #1
 - Adopt the CEQA determination
 - Oppose S. 711
- Option #2
 - Take no position at this time

Staff Recommendation

- Option #1