Resolution Relating to the Protocol to Secure Vulnerability Assessments Filed by Water Systems Pursuant to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002

WHEREAS, In June 2002, the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act) was signed into law; and

WHEREAS, Title IV of this Act amends the Safe Drinking Water Act and outlines actions that every community water system and the U. S. Environmental Protection Agency (EPA) must take to improve the security of the nation's drinking water infrastructure; and

WHEREAS, The Bioterrorism Act requires every community water system serving a population greater than 3,300 persons to conduct, certify the completion of, and submit to EPA an assessment of the vulnerability of the system to terrorist attack or other acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; and

WHEREAS, EPA has developed an Information Protection Protocol (Protocol) to safeguard the vulnerability assessments and any information derived from such assessments once in EPA's custody; and

WHEREAS, EPA will designate a specially trained person to be the "Information Security Manager" who will administer the protection of vulnerability assessment information and the implementation of the Protocol; and

WHEREAS, The Protocol establishes protective measures to
ensure that all vulnerability assessments are kept in a
designated area securely locked within its facilities in
Headquarters to serve as the Secure File and Review Area
accessible only by individuals designated by the EPA
Administrator and no information from a submitted vulnerability
assessment will be available to anyone other than those
designated, except as specified under Sections 1433(a)(6) and
(7) of the Safe Drinking Water Act, as amended; and

WHEREAS, The Protocol establishes stringent restrictions
whereby copying and numbering, loaning, transmitting, and
discussing vulnerability assessments is prohibited except on a
rare, case-by-case basis as authorized by the Director of EPA's
Office of Ground Water and Drinking Water; and

WHEREAS, If the Director of EPA's Office of Ground Water and
Drinking Water authorizes loaning of a vulnerability
assessment(s) to an EPA Regional office, the Region will
designate an employee to become the Regional Security
Officer who will oversee the implementation of this Protocol and
manage all loaned vulnerability assessment(s) at the EPA
Regional office level and follow comparable security operations
as those implemented centrally in EPA Headquarters by the
Headquarters Information Security Manager; and

WHEREAS, If the Director of EPA's Office of Ground Water
and Drinking Water determines that an unauthorized disclosure
has occurred, or vulnerability assessment information is
missing, EPA will notify the affected community water
system(s) by written notice containing a description of the
incident and the date of disclosure, if known, and the
designated individual who disclosed the information will be subject to criminal prosecution and fines in accordance with provisions of chapter 227, 18 United States Code, applicable to class A misdemeanors, and upon conviction may be imprisoned for not more than one year or both; and

WHEREAS, In addition to the foregoing protocol, the National Association of Water Companies Rates and Revenues Committee and Regulatory Law Committee has also prepared a Model Protective Agreement; now therefore be it

RESOLVED, That the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), convened in its February 2003 Winter Meetings in Washington, D.C., supports the EPA Protocol; and be it further

RESOLVED, That Public Utility Commissions, in their review of their information protocol consider the attached Model Protective Agreement prepared by the National Association of Water Companies Rates and Revenues Committee and Regulatory Law Committee; and be it further

RESOLVED, That Public Utility Commissions establish comprehensive confidentiality procedures to protect any security related information, the disclosure of which could compromise public safety.

Sponsored by the Committee on Water and Ad Hoc Committee on Critical Infrastructure
Adopted by the NARUC Board of Directors February 26, 2003