

113TH CONGRESS  
2D SESSION

# S. 1961

To protect surface water from contamination by chemical storage facilities,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2014

Mr. MANCHIN (for himself, Mrs. BOXER, and Mr. ROCKEFELLER) introduced  
the following bill; which was read twice and referred to the Committee  
on Environment and Public Works

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## A BILL

To protect surface water from contamination by chemical  
storage facilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Chemical Safety and  
5 Drinking Water Protection Act of 2014”.

6 **SEC. 2. PROTECTION OF SURFACE WATER FROM CONTAMI-**  
7 **NATION BY CHEMICAL STORAGE FACILITIES.**

8 (a) IN GENERAL.—The Safe Drinking Water Act (42  
9 U.S.C. 300f et seq.) is amended by adding at the end the  
10 following:

1 **“PART G—PROTECTION OF SURFACE WATER**  
2 **FROM CONTAMINATION BY CHEMICAL STOR-**  
3 **AGE FACILITIES**

4 **“SEC. 1471. DEFINITIONS.**

5 “In this part:

6 “(1) COVERED CHEMICAL STORAGE FACIL-  
7 ITY.—

8 “(A) IN GENERAL.—The term ‘covered  
9 chemical storage facility’ means a facility at  
10 which a chemical is stored and the Adminis-  
11 trator or State, as applicable, determines that a  
12 release of the chemical from the facility poses  
13 a risk of harm to a public water system.

14 “(B) EXCLUSIONS.—The term ‘covered  
15 chemical storage facility’ does not include a fa-  
16 cility that is subject to a procedure, method, or  
17 other requirement for equipment to address  
18 hazardous substances pursuant to section  
19 311(j)(1)(C) of the Federal Water Pollution  
20 Control Act (33 U.S.C. 1321(j)(1)(C)).

21 “(C) CONSIDERATIONS.—In determining  
22 risk of harm posed by a chemical storage facil-  
23 ity under subparagraph (A), the Administrator  
24 or State, as applicable, may consider the re-  
25 quirements of applicable Federal or State laws  
26 (including regulations).

1           “(2) STATE PROGRAM.—The term ‘State pro-  
2           gram’ means a chemical storage facility source water  
3           protection program established under section 1472.

4   **“SEC. 1472. ESTABLISHMENT OF STATE PROGRAMS.**

5           “(a) IN GENERAL.—Not later than 1 year after the  
6           date of enactment of this part, the Administrator or each  
7           State exercising primary enforcement responsibility for  
8           public water systems, as applicable, shall carry out, di-  
9           rectly or through delegation, a chemical storage facility  
10          source water protection program to provide for the protec-  
11          tion of public water systems from a release of a chemical  
12          from a covered chemical storage facility.

13          “(b) PROGRAM REQUIREMENTS.—

14                 “(1) IN GENERAL.—A State program under  
15                 subsection (a) shall provide for oversight and inspec-  
16                 tion of each covered chemical storage facility in ac-  
17                 cordance with the requirements described in para-  
18                 graph (2) to prevent the release of chemicals into  
19                 the water supply in watersheds with public water  
20                 systems that rely on surface water, including a cov-  
21                 ered chemical storage facility located in a source  
22                 water area identified under section 1453.

23                 “(2) MINIMUM REQUIREMENTS.—At a min-  
24                 imum, a State program shall include—

1           “(A) requirements for covered chemical  
2 storage facilities, including—

3                   “(i) acceptable standards of good de-  
4 sign, construction, or maintenance;

5                   “(ii) leak detection;

6                   “(iii) spill and overflow control;

7                   “(iv) inventory control;

8                   “(v) an emergency response and com-  
9 munication plan;

10                  “(vi) an employee training and safety  
11 plan;

12                  “(vii) an inspection of the integrity of  
13 each covered chemical storage facility;

14                  “(viii) lifecycle maintenance, including  
15 corrosion protection;

16                  “(ix) notice to the Administrator, the  
17 appropriate State agency, and applicable  
18 public water systems of—

19                          “(I) the potential toxicity of the  
20 stored chemicals to humans and the  
21 environment; and

22                          “(II) safeguards or other pre-  
23 cautions that can be taken to detect,  
24 mitigate, or otherwise limit the ad-

1                   verse effects of a release of the stored  
2                   chemicals; and

3                   “(x) financial responsibility require-  
4                   ments, including proof of insurance, bond,  
5                   or other similar instrument;

6                   “(B) inspections of covered chemical stor-  
7                   age facilities, which shall occur—

8                   “(i) for a covered chemical storage fa-  
9                   cility identified in a source water assess-  
10                  ment area under section 1453, not less fre-  
11                  quently than once every 3 years; and

12                  “(ii) for any other covered chemical  
13                  storage facility, not less frequently than  
14                  once every 5 years; and

15                  “(C) a comprehensive inventory of the cov-  
16                  ered chemical storage facilities in each State.

17                  “(c) NATIONAL PRIMARY DRINKING WATER REGU-  
18                  LATIONS.—For purposes of primary enforcement responsi-  
19                  bility, a State program and any requirements under this  
20                  part shall be—

21                  “(1) considered to be a part of the national pri-  
22                  mary drinking water regulations established under  
23                  section 1412; and

1           “(2) implemented and enforced in accordance  
2           with the procedures under sections 1413 and 1414  
3           and part E.

4           “(d) ADMINISTRATION.—A State program shall be  
5           carried out—

6           “(1) if the State exercises primary enforcement  
7           responsibility for public water systems in that State  
8           under this Act, by the State; and

9           “(2) if the State does not exercise primary en-  
10          forcement responsibility for public water systems in  
11          that State under this Act, by the Administrator.

12          “(e) GUIDANCE.—The Administrator may issue guid-  
13          ance or provide other technical assistance to State pro-  
14          grams in carrying out activities under this part.

15          **“SEC. 1473. CORRECTIVE ACTION ORDERS.**

16          ““The Administrator under section 1472(d)(2) or the  
17          State under section 1472(d)(1), as applicable, may issue  
18          an order to the owner or operator of a covered chemical  
19          storage facility to carry out this part.

20          **“SEC. 1474. COST RECOVERY.**

21          ““If costs have been incurred by the Administrator or  
22          the State, as applicable, for undertaking a response action  
23          under this part relating to the release of a chemical, the  
24          owner or operator of the covered chemical storage facility

1 shall be liable to the Administrator or the State for those  
2 costs.

3 **“SEC. 1475. TRANSFER OF COVERED CHEMICAL STORAGE**  
4 **FACILITIES.**

5 “Notwithstanding the inspection schedule under sec-  
6 tion 1472(b)(2)(B), no person shall transfer a covered  
7 chemical storage facility unless—

8 “(1) prior to the closing or completion of the  
9 transfer, the transferor submits to the transferee the  
10 results of a pretransfer inspection of the integrity of  
11 the covered chemical storage facility, which shall be  
12 conducted pursuant to any requirements set by the  
13 Administrator under section 1472(d)(2) or the State  
14 under section 1472(d)(1), as applicable; and

15 “(2) the transferor or the transferee agrees to  
16 take appropriate measures to address the results of  
17 the pretransfer inspection prior to the date that is  
18 30 days after the date on which the covered chemical  
19 storage facility closes or is transferred.

20 **“SEC. 1476. INFORMATION SHARING.**

21 “(a) INFORMATION FOR PUBLIC WATER SYSTEMS.—  
22 The Administrator or State, as applicable, shall provide  
23 public water systems with information relating to—

1           “(1) emergency response plans for covered  
2 chemical storage facilities located within the same  
3 watershed as the public water system; and

4           “(2) an inventory of each chemical held at the  
5 covered chemical storage facilities described in para-  
6 graph (1).

7           “(b) EMERGENCY RESPONSE PLANS.—A copy of  
8 each emergency response plan submitted under section  
9 1472(b)(2)(A) shall be provided to—

10           “(1) the Administrator (if the State exercises  
11 primary responsibility for public water systems in  
12 that State); and

13           “(2) the Secretary of Homeland Security.

14           “(c) INFORMATION.—

15           “(1) IN GENERAL.—The Administrator or a  
16 State, as applicable, may keep confidential informa-  
17 tion the Administrator or the State determines to be  
18 sensitive and present a security risk to a covered  
19 chemical storage facility.

20           “(2) EXCEPTIONS.—Paragraph (1) shall not—

21           “(A) apply to public health information; or

22           “(B) prevent the sharing of information  
23 with the Administrator, the Secretary of Home-  
24 land Security, a public water system, or a pub-  
25 lic agency involved in emergency response.”.

1 (b) EMERGENCY POWERS.—Section 1431 of the Safe  
2 Drinking Water Act (42 U.S.C. 300i) is amended—

3 (1) by redesignating subsection (b) as sub-  
4 section (c); and

5 (2) by inserting after subsection (a) the fol-  
6 lowing:

7 “(b) PETITIONS.—

8 “(1) IN GENERAL.—In any case in which the  
9 Administrator is authorized to act under subsection  
10 (a), the owner or operator of a public water system  
11 may—

12 “(A) commence a civil action for appro-  
13 priate equitable relief, including a restraining  
14 order or permanent or temporary injunction, to  
15 address any activity or facility that may present  
16 an imminent and substantial endangerment to  
17 the health of persons who are supplied by that  
18 public water system; or

19 “(B) petition the Administrator to issue an  
20 order or commence a civil action under sub-  
21 section (a).

22 “(2) RESPONSE.—

23 “(A) IN GENERAL.—Subject to subpara-  
24 graph (B), not later than 30 days after the date  
25 on which the Administrator receives a petition

1 under paragraph (1), the Administrator shall  
2 respond to the petition and initiate such action  
3 as the Administrator determines to be appro-  
4 priate.

5 “(B) SPECIAL RULE FOR EMERGENCIES.—  
6 If the owner or operator of a public water sys-  
7 tem submits the petition under paragraph (1)  
8 in response to an emergency, the Administrator  
9 shall respond not later than 72 hours after re-  
10 ceipt of the petition.”.

11 (c) CONFORMING AMENDMENT.—Section 1414 of the  
12 Safe Drinking Water Act (42 U.S.C. 300g-3) is amend-  
13 ed—

14 (1) in subsections (a), (b), (e), (f), and (g)—

15 (A) by inserting after “public water sys-  
16 tem” each place it appears “or a covered chem-  
17 ical storage facility”; and

18 (B) by inserting after “public water sys-  
19 tems” each place it appears “or a covered  
20 chemical storage facility”; and

21 (2) in subsection (i)—

22 (A) by redesignating paragraphs (1)  
23 through (3) as subparagraphs (A) through (C),  
24 respectively, and indenting appropriately;

1 (B) by striking the heading designation  
2 and all that follows through “means—” and in-  
3 serting the following:

4 “(i) DEFINITIONS.—In this section:

5 “(1) APPLICABLE REQUIREMENT.—The term  
6 ‘applicable requirement’ means—”;

7 (C) in paragraph (1)(A) (as so redesi-  
8 gnated)—

9 (i) by inserting a comma after  
10 “1417”; and

11 (ii) by striking “or 1445” and insert-  
12 ing “1445, or part G”; and

13 (D) by adding at the end the following:

14 “(2) COVERED CHEMICAL STORAGE FACIL-  
15 ITY.—The term ‘covered chemical storage facility’  
16 has the meaning given the term in section 1471.”.

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