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

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Chemical Safety and Drinking Water Protection Act of 2014”.

SEC. 2. PROTECTION OF SURFACE WATER FROM CONTAMINATION BY CHEMICAL STORAGE FACILITIES.
(a) IN GENERAL.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:
“PART G—PROTECTION OF SURFACE WATER FROM CONTAMINATION BY CHEMICAL STORAGE FACILITIES

“SEC. 1471. DEFINITIONS.

“In this part:

“(1) COVERED CHEMICAL STORAGE FACILITY.—

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

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

“(C) CONSIDERATIONS.—In determining risk of harm posed by a chemical storage facility under subparagraph (A), the Administrator or State, as applicable, may consider the requirements of applicable Federal or State laws (including regulations).
“(2) STATE PROGRAM.—The term ‘State program’ means a chemical storage facility source water protection program established under section 1472.

“SEC. 1472. ESTABLISHMENT OF STATE PROGRAMS.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the Administrator or each State exercising primary enforcement responsibility for public water systems, as applicable, shall carry out, directly or through delegation, a chemical storage facility source water protection program to provide for the protection of public water systems from a release of a chemical from a covered chemical storage facility.

“(b) PROGRAM REQUIREMENTS.—

“(1) IN GENERAL.—A State program under subsection (a) shall provide for oversight and inspection of each covered chemical storage facility in accordance with the requirements described in paragraph (2) to prevent the release of chemicals into the water supply in watersheds with public water systems that rely on surface water, including a covered chemical storage facility located in a source water area identified under section 1453.

“(2) MINIMUM REQUIREMENTS.—At a minimum, a State program shall include—
“(A) requirements for covered chemical
storage facilities, including—

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

“(ii) leak detection;

“(iii) spill and overfill control;

“(iv) inventory control;

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

“(vi) an employee training and safety
plan;

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

“(viii) lifecycle maintenance, including
corrosion protection;

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

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

“(II) safeguards or other pre-
cautions that can be taken to detect,
mitigate, or otherwise limit the ad-
verse effects of a release of the stored
chemicals; and

“(x) financial responsibility require-
ments, including proof of insurance, bond,
or other similar instrument;
“(B) inspections of covered chemical stor-
age facilities, which shall occur—
“(i) for a covered chemical storage fa-
cility identified in a source water assess-
ment area under section 1453, not less fre-
quently than once every 3 years; and
“(ii) for any other covered chemical
storage facility, not less frequently than
once every 5 years; and
“(C) a comprehensive inventory of the cov-
ered chemical storage facilities in each State.
“(c) NATIONAL PRIMARY DRINKING WATER REGU-
LATIONS.—For purposes of primary enforcement responsi-
bility, a State program and any requirements under this
part shall be—
“(1) considered to be a part of the national pri-
mary drinking water regulations established under
section 1412; and
“(2) implemented and enforced in accordance with the procedures under sections 1413 and 1414 and part E.

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

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

“(2) if the State does not exercise primary enforcement responsibility for public water systems in that State under this Act, by the Administrator.

“(e) GUIDANCE.—The Administrator may issue guidance or provide other technical assistance to State programs in carrying out activities under this part.

“SEC. 1473. CORRECTIVE ACTION ORDERS.

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

“SEC. 1474. COST RECOVERY.

“If costs have been incurred by the Administrator or the State, as applicable, for undertaking a response action under this part relating to the release of a chemical, the owner or operator of the covered chemical storage facility
shall be liable to the Administrator or the State for those
costs.

“SEC. 1475. TRANSFER OF COVERED CHEMICAL STORAGE
FACILITIES.

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

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

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

“SEC. 1476. INFORMATION SHARING.

“(a) INFORMATION FOR PUBLIC WATER SYSTEMS.—
The Administrator or State, as applicable, shall provide
public water systems with information relating to—
“(1) emergency response plans for covered chemical storage facilities located within the same watershed as the public water system; and

“(2) an inventory of each chemical held at the covered chemical storage facilities described in paragraph (1).

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

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

“(2) the Secretary of Homeland Security.

“(c) INFORMATION.—

“(1) IN GENERAL.—The Administrator or a State, as applicable, may keep confidential information the Administrator or the State determines to be sensitive and present a security risk to a covered chemical storage facility.

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

“(A) apply to public health information; or

“(B) prevent the sharing of information with the Administrator, the Secretary of Homeland Security, a public water system, or a public agency involved in emergency response.”.

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

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) PETITIONS.—

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

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

“(B) petition the Administrator to issue an order or commence a civil action under subsection (a).

“(2) RESPONSE.—

“(A) IN GENERAL.—Subject to subparagraph (B), not later than 30 days after the date on which the Administrator receives a petition...
under paragraph (1), the Administrator shall respond to the petition and initiate such action as the Administrator determines to be appropriate.

“(B) SPECIAL RULE FOR EMERGENCIES.—If the owner or operator of a public water system submits the petition under paragraph (1) in response to an emergency, the Administrator shall respond not later than 72 hours after receipt of the petition.”.

(c) CONFORMING AMENDMENT.—Section 1414 of the Safe Drinking Water Act (42 U.S.C. 300g–3) is amended—

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

(A) by inserting after “public water system” each place it appears “or a covered chemical storage facility”; and

(B) by inserting after “public water systems” each place it appears “or a covered chemical storage facility”; and

(2) in subsection (i)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and indenting appropriately;
(B) by striking the heading designation and all that follows through “means—” and inserting the following:

“(i) DEFINITIONS.—In this section:

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

(C) in paragraph (1)(A) (as so redesignated)—

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

(ii) by striking “or 1445” and inserting “1445, or part G”; and

(D) by adding at the end the following:

“(2) COVERED CHEMICAL STORAGE FACILITY.—The term ‘covered chemical storage facility’ has the meaning given the term in section 1471.”.