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[Report No. 113-238]

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, Mr. ROCKEFELLER, Mr. DURBIN,
Mr. UDALL of New Mexico, and Mr. WYDEN) introduced the following
bill; which was read twice and referred to the Committee on Environment
and Public Works

JULY 31, 2014

Reported by Mrs. BOXER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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~~”.

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

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

6 **“PART G—PROTECTION OF SURFACE WATER**
 7 **FROM CONTAMINATION BY CHEMICAL STOR-**
 8 **AGE FACILITIES**

9 **“SEC. 1471. DEFINITIONS.**

10 “In this part:

11 “(1) **COVERED CHEMICAL STORAGE FACIL-**
 12 **ITY.**—

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

19 “(B) **EXCLUSIONS.**—The term ‘covered
 20 chemical storage facility’ does not include a fa-
 21 cility that is subject to a procedure, method, or
 22 other requirement for equipment to address
 23 hazardous substances pursuant to section
 24 311(j)(1)(C) of the Federal Water Pollution
 25 Control Act (33 U.S.C. 1321(j)(1)(C)).

1 “(C) CONSIDERATIONS.—In determining
2 risk of harm posed by a chemical storage facil-
3 ity under subparagraph (A), the Administrator
4 or State, as applicable, may consider the re-
5 quirements of applicable Federal or State laws
6 (including regulations).

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

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

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

19 “(b) PROGRAM REQUIREMENTS.—

20 “(1) IN GENERAL.—A State program under
21 subsection (a) shall provide for oversight and inspec-
22 tion of each covered chemical storage facility in ac-
23 cordance with the requirements described in para-
24 graph (2) to prevent the release of chemicals into
25 the water supply in watersheds with public water

1 systems that rely on surface water, including a cov-
2 ered chemical storage facility located in a source
3 water area identified under section 1453.

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

6 “(A) requirements for covered chemical
7 storage facilities, including—

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

10 “(ii) leak detection;

11 “(iii) spill and overflow control;

12 “(iv) inventory control;

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

15 “(vi) an employee training and safety
16 plan;

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

19 “(viii) lifecycle maintenance, including
20 corrosion protection;

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

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

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

9 “(x) financial responsibility require-
10 ments, including proof of insurance, bond,
11 or other similar instrument;

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

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

18 “(ii) for any other covered chemical
19 storage facility, not less frequently than
20 once every 5 years; and

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

23 “(e) NATIONAL PRIMARY DRINKING WATER REGU-
24 LATIONS.—For purposes of primary enforcement responsi-

1 bility, a State program and any requirements under this
2 part shall be—

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

6 “(2) implemented and enforced in accordance
7 with the procedures under sections 1413 and 1414
8 and part E.

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

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

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

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

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

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

1 **“SEC. 1474. COST RECOVERY.**

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

8 **“SEC. 1475. TRANSFER OF COVERED CHEMICAL STORAGE**
9 **FACILITIES.**

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

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

20 “~~(2) the transferor or the transferee agrees to~~
21 ~~take appropriate measures to address the results of~~
22 ~~the pretransfer inspection prior to the date that is~~
23 ~~30 days after the date on which the covered chemical~~
24 ~~storage facility closes or is transferred.~~

1 **“SEC. 1476. INFORMATION SHARING.**

2 **“(a) INFORMATION FOR PUBLIC WATER SYSTEMS.—**

3 The Administrator or State, as applicable, shall provide
4 public water systems with information relating to—

5 **“(1) emergency response plans for covered**
6 **chemical storage facilities located within the same**
7 **watershed as the public water system; and**

8 **“(2) an inventory of each chemical held at the**
9 **covered chemical storage facilities described in para-**
10 **graph (1).**

11 **“(b) EMERGENCY RESPONSE PLANS.—A copy of**
12 **each emergency response plan submitted under section**
13 **1472(b)(2)(A) shall be provided to—**

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

17 **“(2) the Secretary of Homeland Security.**

18 **“(c) INFORMATION.—**

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

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

25 **“(A) apply to public health information; or**

1 “(B) prevent the sharing of information
2 with the Administrator, the Secretary of Home-
3 land Security, a public water system, or a pub-
4 lic agency involved in emergency response.”.

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

7 (1) by redesignating subsection (b) as sub-
8 section (e); and

9 (2) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) PETITIONS.—

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

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

23 “(B) petition the Administrator to issue an
24 order or commence a civil action under sub-
25 section (a).

1 “(2) RESPONSE.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), not later than 30 days after the date
4 on which the Administrator receives a petition
5 under paragraph (1), the Administrator shall
6 respond to the petition and initiate such action
7 as the Administrator determines to be appro-
8 priate.

9 “(B) SPECIAL RULE FOR EMERGENCIES.—

10 If the owner or operator of a public water sys-
11 tem submits the petition under paragraph (1)
12 in response to an emergency, the Administrator
13 shall respond not later than 72 hours after re-
14 ceipt of the petition.”.

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

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

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

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

25 (2) in subsection (i)—

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

4 (B) by striking the heading designation
5 and all that follows through “means—” and in-
6 serting the following:

7 “(i) DEFINITIONS.—In this section:

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

10 (C) in paragraph (1)(A) (as so redesi-
11 gnated)—

12 (i) by inserting a comma after
13 “1417”; and

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

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

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

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Chemical Safety and*
22 *Drinking Water Protection Act of 2014”.*

1 **SEC. 2. PROTECTION OF SURFACE WATER FROM CONTAMI-**
 2 **NATION BY CHEMICAL STORAGE TANKS.**

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

6 **“PART G—PROTECTION OF SURFACE WATER**
 7 **FROM CONTAMINATION BY CHEMICAL STOR-**
 8 **AGE TANKS**

9 **“SEC. 1471. DEFINITIONS.**

10 *“In this part:*

11 *“(1) CHEMICAL.—The term ‘chemical’ means a*
 12 *chemical substance that is—*

13 *“(A) identified as a hazardous substance, as*
 14 *defined in section 101(14) of the Comprehensive*
 15 *Environmental Response, Compensation, and Li-*
 16 *ability Act (42 U.S.C. 9601(14));*

17 *“(B) subject to emergency planning or re-*
 18 *porting requirements of the Emergency Planning*
 19 *and Community Right-To-Know Act (42 U.S.C.*
 20 *11001 et seq.); or*

21 *“(C) defined as a contaminant under sec-*
 22 *tion 1401(6) of the Safe Drinking Water Act (42*
 23 *U.S.C. 300f(6)).*

24 *“(2) COVERED CHEMICAL STORAGE TANK.—*

25 *“(A) IN GENERAL.—The term ‘covered*
 26 *chemical storage tank’ means an onshore, fixed,*

1 *above-ground bulk chemical storage container*
2 *(including any associated piping and appur-*
3 *tenances), or a combination of such storage con-*
4 *tainers, from which a release of the chemical*
5 *from the tank or storage containers or combina-*
6 *tion of storage containers and tanks could pose*
7 *a risk of harm to a public water system.*

8 “(B) *EXCLUSIONS.*—

9 “(i) *IN GENERAL.*—*The term ‘covered*
10 *chemical storage tank’ does not include a*
11 *tank or container that is subject to a proce-*
12 *dure, method, or other requirement pursu-*
13 *ant to regulations promulgated under sec-*
14 *tion 311(j)(1)(C) of the Federal Water Pol-*
15 *lution Control Act (33 U.S.C.*
16 *1321(j)(1)(C)).*

17 “(ii) *ADDITIONAL EXCLUSIONS.*—*The*
18 *Administrator or State, as applicable, shall*
19 *consider and may adopt appropriate exclu-*
20 *sions—*

21 “(I) *based on applicable Federal*
22 *or State laws (including regulations)*
23 *that substantially meet the require-*
24 *ments and purposes of this Act; or*

1 “(II) for covered chemical storage
2 tanks that the Administrator or State,
3 as applicable, determines would not
4 pose a risk of harm to a public water
5 system.

6 “(3) PROGRAM.—The term ‘program’ means a
7 chemical storage tank surface water protection pro-
8 gram established under section 1472.

9 **“SEC. 1472. ESTABLISHMENT OF PROGRAMS.**

10 “(a) IN GENERAL.—Not later than 2 years after the
11 date of enactment of this part, the Administrator or each
12 State exercising primary enforcement responsibility for
13 public water systems, as applicable, shall establish, directly
14 or through delegation to any State agency the Governor of
15 the State determines is appropriate, a chemical storage
16 tank surface water protection program to provide for the
17 protection of public water systems from a release of a chem-
18 ical from a covered chemical storage tank.

19 “(b) PROGRAM REQUIREMENTS.—

20 “(1) IN GENERAL.—A program under subsection
21 (a) shall provide for oversight and inspection of each
22 covered chemical storage tank in accordance with the
23 requirements described in paragraph (2) to prevent
24 the release of chemicals into surface water supplies of
25 public water systems, including a covered chemical

1 *storage tank located in a source water area identified*
2 *under section 1453.*

3 “(2) *MINIMUM REQUIREMENTS.—At a min-*
4 *imum, the program shall include—*

5 “(A) *requirements for covered chemical stor-*
6 *age tanks, including—*

7 “(i) *appropriate standards of good de-*
8 *sign, construction, or maintenance;*

9 “(ii) *leak detection;*

10 “(iii) *spill and overflow prevention and*
11 *containment;*

12 “(iv) *inventory control for the purpose*
13 *of promptly determining the quantity of*
14 *chemicals released in the event of a spill;*

15 “(v) *an emergency response and com-*
16 *munication plan, including procedures for*
17 *immediately notifying, after discovery of a*
18 *chemical release, public water systems that*
19 *may be adversely impacted by the chemical*
20 *release, and other entities required by the*
21 *Emergency Planning and Community*
22 *Right-To-Know Act of 1986 (42 U.S.C.*
23 *11001 et seq.);*

24 “(vi) *an employee training and safety*
25 *plan;*

1 “(vii) an inspection of the integrity of
2 covered chemical storage tanks, consistent
3 with appropriate standards;

4 “(viii) lifecycle maintenance, including
5 corrosion protection;

6 “(ix) notice to the Administrator and
7 the appropriate State agency of—

8 “(I) the existing information on
9 the potential toxicity of the stored
10 chemicals to public health and the en-
11 vironment that the Administrator or
12 State, as applicable, determines is rel-
13 evant to evaluate the risk of harm to
14 public water systems; and

15 “(II) safeguards or other pre-
16 cautions that can be taken to detect,
17 mitigate, or otherwise limit the adverse
18 effects of a release of the stored chemi-
19 cals; and

20 “(x) financial responsibility require-
21 ments, including proof of insurance, bond,
22 self-insurance, guarantee, or other similar
23 financial assurance instrument;

24 “(B) inspections of covered chemical storage
25 tanks, which shall occur—

1 “(i) for a covered chemical storage
2 tank listed under paragraph (3), annually
3 by a certified inspector on behalf of the
4 owner or operator of such tank;

5 “(ii) for a covered chemical storage
6 tank identified in a source water assessment
7 area under section 1453, not less frequently
8 than once every 3 years by the Adminis-
9 trator or State, as applicable; and

10 “(iii) for any other covered chemical
11 storage tank, not less frequently than once
12 every 5 years; and

13 “(C) a comprehensive inventory of the cov-
14 ered chemical storage tanks in each State.

15 “(3) *HIGH HAZARD COVERED CHEMICAL STOR-*
16 *AGE TANKS.*—Not later than 2 years after the date of
17 enactment of this part, the Administrator or the
18 State, as applicable, shall develop a list of covered
19 chemical storage tanks from which a release of a
20 chemical from the tanks poses the greatest risk of
21 harm to public water systems in the State and the
22 greatest risk to public health.

23 “(c) *INCORPORATION OF EXISTING STANDARDS.*—In
24 establishing mandatory program requirements under sub-

1 *section (b), the Administrator or a State, as applicable,*
 2 *may, by reference, include appropriate—*

3 “(1) *requirements under State or Federal law,*
 4 *including regulations, as in effect on the date on*
 5 *which the program requirements are established; and*

6 “(2) *consensus standards.*

7 “(d) *NATIONAL PRIMARY DRINKING WATER REGULA-*
 8 *TIONS.—For purposes of primary enforcement responsi-*
 9 *bility, a program and any requirements under this part*
 10 *shall be—*

11 “(1) *considered to be a part of the national pri-*
 12 *mary drinking water regulations established under*
 13 *section 1412; and*

14 “(2) *implemented and enforced in accordance*
 15 *with this Act.*

16 “(e) *ADMINISTRATION.—A program shall be carried*
 17 *out—*

18 “(1) *if the State exercises primary enforcement*
 19 *responsibility for public water systems in that State*
 20 *under this Act, by the State; or*

21 “(2) *by the Administrator if the State—*

22 “(A) *does not exercise primary enforcement*
 23 *responsibility for public water systems in that*
 24 *State under this Act; or*

1 “(B)(i) *exercises primary enforcement re-*
2 *sponsibility for public water systems in that*
3 *State; and*

4 “(ii) *expressly refrains from administering*
5 *and implementing a program under this part.*

6 “(f) *NOTIFICATION.—Not later than 2 years after the*
7 *date of enactment of this part, the State shall notify the*
8 *Administrator if the State—*

9 “(1) *exercises primary enforcement responsibility*
10 *for public water systems in that State under this Act;*
11 *and*

12 “(2) *refrains from establishing a program under*
13 *this part.*

14 “(g) *SEVERABILITY.—If a State does not implement*
15 *a program under this part, it shall not otherwise affect the*
16 *primary enforcement responsibility of the State under this*
17 *Act.*

18 “(h) *GUIDANCE.—The Administrator shall issue guid-*
19 *ance, subject to public notice and opportunity for comment,*
20 *and provide other technical assistance to States carrying*
21 *out programs and activities under this part.*

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

23 *“The Administrator under section 1472(e)(2) or the*
24 *State under section 1472(e)(1), as applicable, may issue an*

1 *order to the owner or operator of a covered chemical storage*
2 *tank to carry out this part.*

3 **“SEC. 1474. RESPONSE COST RECOVERY.**

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

10 **“SEC. 1475. TRANSFER OF COVERED CHEMICAL STORAGE**
11 **TANKS.**

12 *“(a) IN GENERAL.—Notwithstanding the inspection*
13 *schedule under section 1472(b)(2)(B), no person shall trans-*
14 *fer a covered chemical storage tank unless—*

15 *“(1) prior to the closing or completion of the*
16 *transfer, the transferor submits to the transferee the*
17 *results of a pretransfer inspection of the integrity of*
18 *the covered chemical storage tank, which shall be con-*
19 *ducted pursuant to any requirements set by the Ad-*
20 *ministrator under section 1472(e)(2) or the State*
21 *under section 1472(e)(1), as applicable; and*

22 *“(2) except as provided in subsection (e), the*
23 *transferor or the transferee agrees to take appropriate*
24 *measures to address the results of the pretransfer in-*
25 *spection prior to the date that is 1 year after the date*

1 *on which the covered chemical storage tank closes or*
2 *transfer is complete.*

3 “(b) *QUALIFYING INSPECTIONS.*—*An inspection car-*
4 *ried out not earlier than 1 year before the date on which*
5 *a covered chemical storage tank is transferred shall satisfy*
6 *the pretransfer inspection requirement described in sub-*
7 *section (a).*

8 “(c) *THIRD-PARTY INSPECTIONS.*—*An inspection*
9 *made by a qualified engineer on behalf of the owner or oper-*
10 *ator of the tank shall satisfy the pretransfer inspection re-*
11 *quirement described in subsection (a).*

12 “(d) *CALCULATION OF TIME PERIOD.*—*For a covered*
13 *chemical storage tank subject to a pretransfer inspection*
14 *under subsection (a)(1), the deadline for the next required*
15 *inspection under section 1427(b)(2)(B) shall be calculated*
16 *from the date of the pretransfer inspection.*

17 “(e) *EXTENSION.*—*The Administrator or State, as ap-*
18 *plicable, may extend the time period described in subsection*
19 *(a)(2) for a reasonable time if the transferor or transferee*
20 *establishes, to the satisfaction of the Administrator or State,*
21 *that the design and construction of the appropriate meas-*
22 *ures taken under subsection (a)(2) cannot reasonably be*
23 *completed during the time period.*

1 **“SEC. 1476. INFORMATION SHARING.**

2 “(a) *INFORMATION FOR PUBLIC WATER SYSTEMS.—*

3 *Subject to subsection (c), the Administrator or State, as ap-*
4 *plicable, shall make available to public water systems, on*
5 *request, information maintained by the Administrator or*
6 *State, as applicable, in accordance with section 1472(b)(2)*
7 *relating to—*

8 “(1) *emergency response plans for covered chem-*
9 *ical storage tanks located within the same watershed*
10 *as the public water system;*

11 “(2) *an inventory of each chemical held at the*
12 *covered chemical storage tanks described in paragraph*
13 *(1);*

14 “(3) *existing information on the potential tox-*
15 *icity of the stored chemicals to public health and the*
16 *environment that the Administrator or State, as ap-*
17 *plicable, determines is relevant to evaluate the risk of*
18 *harm to public water systems; and*

19 “(4) *safeguards or other precautions that can be*
20 *taken to detect, mitigate, or otherwise limit the ad-*
21 *verse effects of a release of the stored chemicals.*

22 “(b) *EMERGENCY RESPONSE PLANS.—*

23 “(1) *IN GENERAL.—A State or the Adminis-*
24 *trator, as applicable, shall submit a copy of each*
25 *emergency response plan submitted under section*
26 *1472(b)(2)(A) to—*

1 “(A) *the Administrator (or the State if the*
2 *Administrator is carrying out the program); and*

3 “(B) *the Secretary of Homeland Security.*

4 “(2) *CONSISTENCY.—To the maximum extent*
5 *practicable, emergency response plans submitted*
6 *under section 1472(b)(2)(A) shall be integrated with*
7 *applicable area contingency plans under section*
8 *311(j)(4) of the Federal Water Pollution Control Act*
9 *(33 U.S.C. 1321(j)(4)).*

10 “(c) *INFORMATION.—*

11 “(1) *IN GENERAL.—The Administrator or a*
12 *State, as applicable, shall keep confidential informa-*
13 *tion reported to, obtained by, or otherwise submitted*
14 *to the Administrator or the State that the Adminis-*
15 *trator or State determines to be national security sen-*
16 *sitive or present a security risk to a covered chemical*
17 *storage tank.*

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

19 “(A) *apply to public health information;*

20 “(B) *apply to information required to be*
21 *disclosed under the Emergency Planning and*
22 *Community Right-To-Know Act of 1986 (42*
23 *U.S.C. 11001 et seq.) or any other requirement*
24 *under any law (including regulations); or*

1 “(C) prevent the sharing of information
2 with the Administrator, the Secretary of Home-
3 land Security, a public water system, or a public
4 agency involved in emergency response.

5 “(3) *EFFECT.*—Nothing in this subsection af-
6 fects—

7 “(A) except as provided under paragraph
8 (2), any disclosure requirement or exceptions to
9 disclosure under any State law (including regu-
10 lations); or

11 “(B) any disclosure requirement or excep-
12 tions to disclosure under Federal law, including
13 section 552 of title 5, United States Code (com-
14 monly known as the ‘Freedom of Information
15 Act’).”.

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

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

20 (2) by inserting after subsection (a) the fol-
21 lowing:

22 “(b) *PETITIONS.*—

23 “(1) *IN GENERAL.*—In any case in which the
24 Administrator is authorized to act under subsection

1 (a), the owner or operator of a public water system
2 may, but is not required—

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

10 “(B) to petition the Administrator to issue
11 an order or commence a civil action under sub-
12 section (a).

13 “(2) RESPONSE.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), not later than 30 days after the date
16 on which the Administrator receives a petition
17 under paragraph (1), the Administrator shall re-
18 spond to the petition and initiate such action as
19 the Administrator determines to be appropriate.

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

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

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

4 (A) by inserting after “public water sys-
5 tem” each place it appears “or a covered chem-
6 ical storage tank”; and

7 (B) by inserting after “public water sys-
8 tems” each place it appears “or a covered chem-
9 ical storage tank”; and

10 (2) in subsection (i)—

11 (A) by redesignating paragraphs (1)
12 through (4) as subparagraphs (A) through (D),
13 respectively, and indenting appropriately;

14 (B) by striking the heading designation and
15 all that follows through “means—” and inserting
16 the following:

17 “(i) *DEFINITIONS.*—In this section:

18 “(1) *APPLICABLE REQUIREMENT.*—The term ‘ap-
19 plicable requirement’ means—”;

20 (C) in paragraph (1)(A) (as so redesign-
21 ated)—

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

23 and

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

1 *(D) by adding at the end the following:*

2 “(2) *COVERED CHEMICAL STORAGE TANK.—The*
3 *term ‘covered chemical storage tank’ has the meaning*
4 *given the term in section 1471.”.*

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113TH CONGRESS
2^D SESSION

S. 1961

[Report No. 113-238]

A BILL

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

JULY 31, 2014

Reported with an amendment