



When Chemical Spills Threaten Water Supplies

Actions Requested:

- Ensure a thorough review of existing law and regulation concerning above-ground storage tanks to ascertain what, if any, changes are needed to federal law. We believe that any legislation addressing chemical spills into water supplies must:
 - mandate immediate notification of water utilities that may be affected by a release of chemicals or other contaminants into sources of drinking water;
 - provide a streamlined, usable process for providing water utilities with information about contaminants that pose a threat to their water supplies;
 - clarify that a water system's receipt of information about upstream chemical storage does not confer additional monitoring requirements or responsibilities on the water system;
 - allow utilities as well as EPA and state agencies to petition a chemical facility to change its practices, without creating any obligation to do so or risk for not doing so;
 - allow communities and water systems to recover costs incurred from a contaminant spill; and
 - provide states and the U.S. Environmental Protection Agency with resources to carry out these new responsibilities.

Background: The accidental release of coal-cleansing chemicals in January into West Virginia's Elk River, which made Charleston's water undrinkable for several days, triggered quick responses in Congress. In the Senate, we saw introduction of and a hearing involving S. 1961, the Chemical Safety and Drinking Water Protection Act, and in the House, introduction of H.R. 4024, the Ensuring Access to Clean Water Act. We agree with the intent of both of these bills and they do address important points of this issue. However, we do have suggestions to make both of these bills more effective.

We understand it was the intent of these bills that immediate notification be provided to downstream utilities in the event of a spill. These notification requirements and protocols need to be explicitly spelled out in the legislation. We suggest that all water utilities within 25 miles downstream of a chemical facility be notified of a spill within one hour of a spill occurring. Utilities must be informed what chemical was spilled, how it acts in water, and the best way to treat or remove it from water sources.

Because the volume of such information could be high, we suggest the development of an information repository in each state that could be released to a water utility as needed in the event of a spill. The receipt of this information concerning upstream chemicals should not confer new requirements for monitoring or other actions by water utility. It is worth noting that for many chemicals in use in this country, monitoring or measuring techniques may not exist.

Legislation now in play would provide utilities, state agencies, and the U.S. Environmental Protection Agency with the authority to commence civil actions or petition a chemical facility to improve the facility or its practices in order to reduce the risk of a spill. We support this provision, but it is also necessary to make clear that water utilities are under no obligation to take such steps and will face no legal or regulatory jeopardy for taking or not taking such action.

S. 1961 and H.R. 4024 would allow the state and EPA to recover costs incurred from spill activities, but does not mention water systems or the communities affected by a spill. In West Virginia, we saw the local water utility suffer damage, including a loss of revenue. Local businesses suffered financially as well. Federal legislation should make it clear that water systems and local communities are eligible for recovery of losses suffered as the consequence of a spill.

AWWA believes that in general, the responsibilities for above-ground storage tanks should be placed in the agency or office that handles hazardous wastes and emergency response, since most expertise for chemical tanks and spills will reside there, rather than in the drinking water office. It is critical that state and federal regulators charged with these responsibilities receive additional resources commensurate with this expansion in responsibility.

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