

News

SHARE

PRINT | COMMENTS (6) | EMAIL | LETTER TO EDITOR | SIZE



January 14, 2014

g+1 ;

Recommend 413

Tweet 179

State acknowledges it had no plan for Freedom spill

By Ken Ward Jr.

CHARLESTON, W.Va. -- Emergency planners at the state and federal level have conceded that they never put together any strategy for dealing with spills of a toxic chemical from the Freedom Industries' tank farm, despite its location just 1.5 miles upstream from a drinking water intake serving 300,000 people.

Officials on Tuesday acknowledged the lack of such a plan, but state officials say a key federal law -- passed after major chemical accidents, including one nearly 30 years ago in Kanawha County -- did not specifically require a release of the

material Crude MCHM to be modeled or planned for.

Still, experts say that it defies common sense for federal and state regulators to have done so little to consider the potential impacts, given the close proximity of Freedom's operations to the West Virginia American Water intake on the Elk River.

"Much remains to be investigated in the catastrophe -- managerial competency, local, state and federal competency, regulatory sufficiency and ultimately the public culture that protects or weakens the security of essential infrastructure," said industrial safety expert Gerald Poje, a

Advertiser



Get Daily Headlines by E-Mail



Sign Up

Sign up for the latest news delivered to your inbox each morning.

Advertisement - Your ad here



Links to great West Virginia getaways!

News Videos

former member of the U.S. Chemical Safety Board.

As the water company continued the slow process of lifting a "do not use" order that's been place across parts of nine counties since Thursday evening, questions continued about whether government officials could have done more to prevent the incident.

A wide variety of investigations are underway by federal agencies, state officials and lawmakers in both Charleston and Washington.

"This whole series of events is unacceptable," said state Sen. John Unger, D-Berkeley and chairman of the Joint Legislative Oversight Commission on State Water Resources, which is planning to hold hearings and draft legislation in the wake of the leak.

"We want to find out how long this chemical was leaking and who knew about it, and if no one knew, why not," Unger said Tuesday. "There will definitely be a change to the way things have been done in the past."

Chemical Safety Board officials arrived in town Monday and have begun their site examination, and U.S. Attorney Booth Goodwin was encouraging all agencies to cooperate with his office to avoid jeopardizing its criminal probe.

Sen. Jay Rockefeller, D-W.Va., called on the U.S. Centers for Disease Control and Prevention and the U.S. Environmental Protection Agency to launch a study to gather more information about the potential long-term health impacts of the spill.

Both the CDC and the EPA have refused repeated requests for interviews with agency officials who are involved in the response to the spill and the development of the 1-part-per-million limit of Crude MCHM that state officials have insisted is safe.

"Our role right now is very limited," said EPA spokeswoman Alisha Johnson. "As we look at this, we are looking at where we have a role. Right now, that has not been determined."

At the same time, some questions about the incident remain focused on the simple fact that a significant quantity of a toxic material was being stored just upriver from the drinking water intake in the first place.

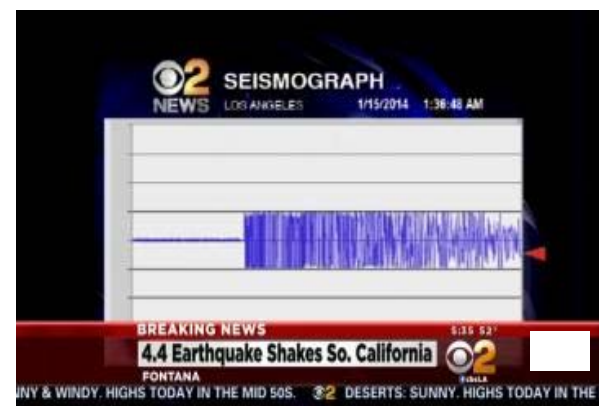
Every year since at least 2008, Freedom Industries told state and local officials that the company's Etowah Terminal stored up to 1 million pounds of Crude MCHM at its Elk River facility.

Most Recent

- EPA's role in response to chemical spill minimal [27 min. ago](#)
- Boil-water advisory issued in South Charleston [39 min. ago](#)
- Latest water update: Ban lifted in more areas
[Updated: 44 min. ago](#)
- Huntington woman dies after scuffle with police [9:09 am](#)
- Fall turkey kills down in state [8:51 am](#)
- [SAVE! with Home Delivery](#)

4.4-Magnitude Quake
Strikes Near Fontana

Los Angeles



Advertisement - [Your ad here](#)

Those disclosures came in what's called a Tier II form, filed with the state Department of Military Affairs and Public Safety under the federal Emergency Planning and Community Right to Know Act.

That law, known as EPCRA, was meant to give state and local emergency responders information to allow them to better plan for chemical leaks and spills. Congress began debating the matter after thousands of people died in a Union Carbide leak in Bhopal, India, in 1984, but didn't act until after a smaller leak at a Carbide plant in Institute injured 135 people.

In the wake of last week's spill at Freedom Industries, state and local officials -- along with West Virginia American Water -- have said they knew little about the chemical, its threats to public health, or how to properly treat it or get it out of drinking water supplies.

Technically, the chemical inventory forms go to the State Emergency Response Commission, which is chaired by Homeland Security chief Jimmy Gianato and is under the broad umbrella of the DMAPS.

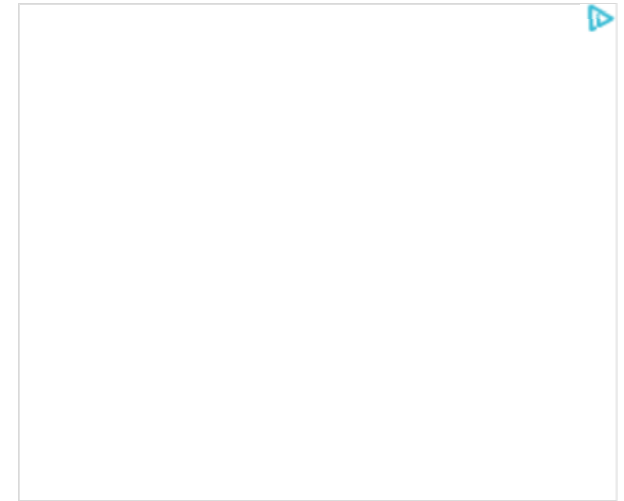
Lawrence Messina, spokesman for the department, said Thursday that agency officials review the Tier II forms they receive from 9,500 different entities every year, mostly looking to see if chemical inventories from different facilities have changed.

As for planning for leaks and spills based on those reports, Messina said, "The folks who do reviews of these are really at the local level." And, he said, the law does not specifically mandate any emergency planning at all for Crude MCHM, or 4-methylcyclohexanemethanol, the material that leaked from Freedom Industries.

Under the law, companies have to file chemical inventory reports for a long list of chemicals for which the U.S. Occupational Safety and Health Administration requires employers to keep material safety data sheets on hand.

CHARLESTON, W.Va. -- Emergency planners at the state and federal level have conceded that they never put together any strategy for dealing with spills of a toxic chemical from the Freedom Industries' tank farm, despite its location just 1.5 miles upstream from a drinking water intake serving 300,000 people.

Officials on Tuesday acknowledged the lack of such a plan, but state officials say a key federal law -- passed after major chemical accidents, including one nearly 30 years ago in Kanawha County --



Top Stories

- Latest water update: Ban lifted in more areas
- One-third of customers have water
- Some don't trust the water yet
- Boil-water advisory issued in South Charleston
- Water service returns for more customers

Advertisement - [Your ad here](#)

Quick messaging phones on sale

no data plan required

See offer details.

[Shop Now](#)

online deals free shipping

2-yr voice agreement req'd. Messaging Unlimited feature recommended.

did not specifically require a release of the material Crude MCHM to be modeled or planned for.

Still, experts say that it defies common sense for federal and state regulators to have done so little to consider the potential impacts, given the close proximity of Freedom's operations to the West Virginia American Water intake on the Elk River.

"Much remains to be investigated in the catastrophe -- managerial competency, local, state and federal competency, regulatory sufficiency and ultimately the public culture that protects or weakens the security of essential infrastructure," said industrial safety expert Gerald Poje, a former member of the U.S. Chemical Safety Board.

As the water company continued the slow process of lifting a "do not use" order that's been in place across parts of nine counties since Thursday evening, questions continued about whether government officials could have done more to prevent the incident.

A wide variety of investigations are underway by federal agencies, state officials and lawmakers in both Charleston and Washington.

"This whole series of events is unacceptable," said state Sen. John Unger, D-Berkeley and chairman of the Joint Legislative Oversight Commission on State Water Resources, which is planning to hold hearings and draft legislation in the wake of the leak.

"We want to find out how long this chemical was leaking and who knew about it, and if no one knew, why not," Unger said Tuesday. "There will definitely be a change to the way things have been done in the past."

Chemical Safety Board officials arrived in town Monday and have begun their site examination, and U.S. Attorney Booth Goodwin was encouraging all agencies to cooperate with his office to avoid jeopardizing its criminal probe.

Sen. Jay Rockefeller, D-W.Va., called on the U.S. Centers for Disease Control and Prevention and the U.S. Environmental Protection Agency to launch a study to gather more information about the potential long-term health impacts of the spill.

Both the CDC and the EPA have refused repeated requests for interviews with agency officials who are involved in the response to the spill and the development of the 1-part-per-million limit of Crude MCHM that state officials have insisted is safe.

"Our role right now is very limited," said EPA spokeswoman Alisha Johnson. "As we look at this, we are looking at where we have a role. Right now, that has not been determined."

At the same time, some questions about the incident remain focused on the simple fact that a significant quantity of a toxic material was being stored just upriver from the drinking water intake in the first place.

Every year since at least 2008, Freedom Industries told state and local officials that the company's Etowah Terminal stored up to 1 million pounds of Crude MCHM at its Elk River facility.

Those disclosures came in what's called a Tier II form, filed with the state Department of Military Affairs and Public Safety under the federal Emergency Planning and Community Right to Know Act.

That law, known as EPCRA, was meant to give state and local emergency responders information to allow them to better plan for chemical leaks and spills. Congress began debating the matter after thousands of people died in a Union Carbide leak in Bhopal, India, in 1984, but didn't act until after a smaller leak at a Carbide plant in Institute injured 135 people.

In the wake of last week's spill at Freedom Industries, state and local officials -- along with West Virginia American Water -- have said they knew little about the chemical, its threats to public health, or how to properly treat it or get it out of drinking water supplies.

Technically, the chemical inventory forms go to the State Emergency Response Commission, which is chaired by Homeland Security chief Jimmy Gianato and is under the broad umbrella of the DMAPS.

Lawrence Messina, spokesman for the department, said Thursday that agency officials review the Tier II forms they receive from 9,500 different entities every year, mostly looking to see if chemical inventories from different facilities have changed.

As for planning for leaks and spills based on those reports, Messina said, "The folks who do reviews of these are really at the local level." And, he said, the law does not specifically mandate any emergency planning at all for Crude MCHM, or 4-methylcyclohexanemethanol, the material that leaked from Freedom Industries.

Under the law, companies have to file chemical inventory reports for a long list of chemicals for

which the U.S. Occupational Safety and Health Administration requires employers to keep material safety data sheets on hand.

But, Messina said, emergency planning is only required for facilities that store certain amounts of a smaller set of chemicals classified for purposes of EPCRA as "extremely hazardous." That list doesn't include Crude MCHM, Messina said, so no planning activities were specifically required.

"This department and its divisions strive to carry out the law as it is given to us by the policymakers," Messina said. "This department is doing everything that is required of it."

Still, state and federal law both give the governor and the SERC authority to add facilities to the emergency-planning list, regardless of whether they meet the specific legal definitions that would require it.

Kent Carper, president of the Kanawha County Commission, said there's simply no question that the Freedom Industries site should have been included in emergency plans, given that it was "hidden in plain sight" so close to an important regional water intake.

"I'm not going to stand here and lie to the people of this county and say we had a plan for this," Carper said. "I'm just going to deal with it."

Carper said local emergency planners "need to step up to the plate."

In Kanawha County, emergency officials, who are charged by law with chemical accident planning, didn't act to prepare for this type of incident, even though they had been warned for years about storage of toxic chemicals so close to the West Virginia American Water plant serving the Kanawha Valley and surrounding region.

Larry Zuspan, administrator of the Kanawha-Putnam Emergency Planning Committee, said that when Thursday's spill initially happened, he had a hard time finding the chemical inventory reports for the site. Company officials had submitted the reports, he said, under the name of Etowah River Terminal -- their name for the operation -- rather than under Freedom Industries, Zuspan said.

"That kind of threw us for a loop," he said. "Why did they do it that way?"

Zuspan said that he's not aware of any efforts by his agency to use the Freedom Industries' chemical inventory report for emergency preparedness activities.

"That's just something that's kind of fallen by the wayside," Zuspan said. "For a small company like this, it just kind of fell through the cracks."

C.W. Sigman, deputy director of emergency services for Kanawha County, said he became familiar with the material that spilled because of previous odor complaints at one site in St. Albans and another between Marmet and Chesapeake.

Several years ago, Sigman said, he drove to the eastern Kanawha County site on a Sunday, his wife in tow, to investigate an odor complaint. The smell helped him find the name of the chemical and then look it up on the county's chemical inventory filings.

"My wife Googles 'smells like licorice,' and we find it," Sigman said.

But, Sigman said, local officials never examined the potential for a spill at Freedom Industries to affect the region's water. "Specifically on that particular plant, other than knowing what the material was, I don't know of any specific planning," Sigman said.

In recent days, Gov. Earl Ray Tomblin has said that he has the Department of Environmental Protection working on potential legislation to address situations like the chemical spill.

DEP Secretary Randy Huffman said his agency is looking at options for permitting and inspections of small chemical tank farms like the one operated by Freedom Industries.

But Huffman said he wasn't aware whether there were any discussions about the state taking action now on a 3-year-old federal Chemical Safety Board recommendation to create a new chemical accident prevention program.

And so far there has been no public mention of beefing up the state's review of chemical inventory forms, or expanding emergency planning requirements to include sites like Freedom's.

Evan Hansen, an environmental consultant with the Morgantown-based firm Downstream Strategies, noted though that the DEP never exercised its existing authority to inspect the Freedom Industries' site under the company's state-issued stormwater runoff permit.

"I can grant that because of resource constraints maybe you can't inspect every single site, but if you are going to do any prioritizing, in your [water pollution], then this would be at the top of the list," Hansen said.

From around the Web



Michelle Au Natural



Probiotics - Warning



Weird Rule in West Virginia:



The End Of America



Who's been Arrested?



Models Sans Swimsuits!



Clever Joint Solution



New Extreme Skinny Pill?

ADVERTISEMENT

Recommended For You

[Man sexually abused three teens at Beckley department store, police say](#)

[DEP inspectors describe early scene at Freedom leak site](#)

[Charleston Sanitary Board says treatment plant can handle flush after spill](#)

[W.Va. congressional delegation calls for action](#)

[Charleston doctor is W.Va.'s top prescriber of hydrocodone](#)

[Doctor, wife dead in apparent murder-suicide](#)

From Around the Web

[Don't Touch that Ketchup: Keep Healthy by Avoiding these 8 Germ Havens](#) (AARP)

[Glenn Beck will fire any employee caught using CFLs](#) (Grist)

[Meet 6 Monster Fish That \(Believe It or Not\) Live in Our Rivers](#) (TakePart)

[Charles Krauthammer: 'The President Now Is Toxic'](#) (Downtrend)

['Extinct' Shark Found —at Fish Market](#) (USA TODAY)

["Duck Dynasty" Stars Embroiled in Drug Scandal](#) (Radar Online)

Recommended by