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EPA Issues New Emergency Response Requirements for Community Water Systems

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On March 27, 2019, The Environmental Protection Agency (EPA) published the Federal Register Notice for New Risk Assessments and Emergency Response Plans for Community Water Systems describing the requirements and deadlines for community (drinking) water systems to develop or update risk and resilience assessments (RRAs) and emergency response plans (ERPs) under America's Water Infrastructure Act (AWIA) which was signed into law on October 23, 2018 and amends the Safe Drinking Water Act (SDWA). Additionally, as described below, preparation of an ERP will enable owners or operators of community water systems to apply for grants from EPA for fiscal years 2020 and 2021.

Covered water systems. Community water systems that serve more than 3,300 people are covered by these requirements. EPA interprets the population served to mean all persons served by the system directly or indirectly, including the population served by consecutive water systems, such as wholesalers.

Deadlines. Each covered Community Water System completing an RRA and ERP must send certifications of completion by the dates listed below, and then review for necessary updates every 5 years thereafter:

Population Served by the Community Water System	Risk and Resilience Assessment (RRA) Certification	Emergency Response Plan (ERP) The dates below are 6 months from the date of the RRA certification, based on a utility submitting a risk assessment on the final due date. Depending on actual RRA certification, ERP due dates could be sooner.
≥100,000	March 31, 2020	September 30, 2020
50,000-99,999	December 31, 2020	June 30, 2021
3,301-49,999	June 30, 2021	December 30, 2021

Risk and Resilience Assessment Requirements. Each covered community water system must assess the risks to, and resilience of, its system including:

- risk to the system from malevolent acts and natural hazards;
- resilience of the pipes and constructed conveyances, physical barriers, source water, water collection and intake, pretreatment, treatment, storage and distribution facilities;
- electronic, computer, or other automated systems (including the security of such systems) which are utilized by the system;
- monitoring practices of the system;
- financial infrastructure of the system;
- use, storage, or handling of various chemicals by the system; and
- operation and maintenance of the system.

Emergency Response Plan Requirements (ERP). No later than six months after certifying completion of its risk and resilience assessment, each system must prepare or revise, where necessary, an emergency response plan that incorporates the findings of the assessment. The ERP must include:

- strategies and resources to improve the resilience of the system, including the physical security and cybersecurity of the system;
- plans and procedures that can be implemented, and identification of equipment that can be utilized, in the event of a malevolent act or natural hazard that threatens the ability of the community water system to deliver safe drinking water;
- actions, procedures, and equipment which can obviate or significantly lessen the impact of a malevolent act or natural hazard on the public health, safety, and supply of drinking water provided to communities and individuals, including the development of alternative source water options, relocation of water intakes, and construction of flood protection barriers; and
- strategies that can be used to aid in the detection of malevolent acts or natural hazards that threaten the security or resilience of the system.

The Federal Register Notice indicates that EPA is not requiring water systems to use any designated standards or methods to complete RRAs or ERPs, provided all of the requirements of the SDWA and AWIA are met. AWIA already defines resilience and natural hazards[1]. EPA will provide additional tools to foster compliance with its provisions and baseline information regarding malevolent acts no later than August 1, 2019. With respect to the latter, it is anticipated that the agency will include consideration of acts that may (1) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or (2) otherwise present significant public health or economic concerns to the community served by the system.

Potential Impacts & Next Steps. Preparation of an ERP will enable the owners or operators of community water systems to apply for grants under the Drinking Water Infrastructure Risk and Resilience Program, under which EPA may award grants in fiscal years 2020 and 2021. If consistent with its ERP, a community water system may apply for grant funding for projects that increase resilience, such as:

- Purchase and installation of equipment for detection of drinking water contaminants or malevolent acts;
- Purchase and installation of fencing, gating, lighting, or security cameras;
- Tamper-proofing of manhole covers, fire hydrants, and valve boxes;
- Purchase and installation of improved treatment technologies and equipment to improve the resilience of the system;
- Improvements to electronic, computer, financial, or other automated systems and remote systems;
- Participation in training programs, and the purchase of training manuals and guidance materials relating to security and resilience;
- Improvements in the use, storage, or handling of chemicals by the community water system;
- Security screening of employees or contractor support services;
- Equipment necessary to support emergency power or water supply, including standby and mobile sources; and
- Development of alternative source water options, relocation of water intakes, and construction of flood protection barriers.

The EPA is currently developing a comprehensive training schedule, which will include both classroom and webinar options.

[1] AWIA defines **Resilience** as "*the ability of a community water system or an asset of a community water system to adapt to or withstand the* ***effects of a malevolent act or natural hazard*** *without interruption to the asset's or system's function, or if the function is interrupted, to rapidly return to a normal operating condition.*" **Natural hazard** means "*a natural event that threatens the functioning of a community water system, including an earthquake, tornado, flood, hurricane, wildfire, and hydrologic changes.*" Though not cited in the Federal Register Notice, consideration of natural hazards may be initiated through the review of the Fourth National Climate Assessment, which contains information on many of the definitional topics as well as a chapter devoted to the Water Sector.

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For more information

Van Ness Feldman professionals are able to assist community water systems with the preparation of RRAs and ERPs and with the application for EPA grant funding. For more information contact Terese (T.C.) Richmond at ter@vnf.com or Gwen Keyes Fleming at gfleming@vnf.com.

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