

110TH CONGRESS
2D SESSION

H. R. 2452

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 23), 2008

Received

AUGUST 1, 2008

Read twice and referred to the Committee on Environment and Public Works

AN ACT

To amend the Federal Water Pollution Control Act to ensure that publicly owned treatment works monitor for and report sewer overflows, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Sewage Overflow Com-
3 munity Right-to-Know Act”.

4 **SEC. 2. DEFINITIONS.**

5 Section 502 of the Federal Water Pollution Control
6 Act (33 U.S.C. 1362) is amended by adding at the end
7 the following:

8 “(25) **SANITARY SEWER OVERFLOW.**—The term
9 ‘sanitary sewer overflow’ means an overflow, spill,
10 release, or diversion of wastewater from a sanitary
11 sewer system. Such term does not include municipal
12 combined sewer overflows or other discharges from
13 a municipal combined storm and sanitary sewer sys-
14 tem and does not include wastewater backups into
15 buildings caused by a blockage or other malfunction
16 of a building lateral that is privately owned. Such
17 term includes overflows or releases of wastewater
18 that reach waters of the United States, overflows or
19 releases of wastewater in the United States that do
20 not reach waters of the United States, and waste-
21 water backups into buildings that are caused by
22 blockages or flow conditions in a sanitary sewer
23 other than a building lateral.

24 “(26) **TREATMENT WORKS.**—The term ‘treat-
25 ment works’ has the meaning given that term in sec-
26 tion 212.”.

1 **SEC. 3. MONITORING, REPORTING, AND PUBLIC NOTIFICA-**
2 **TION OF SEWER OVERFLOWS.**

3 Section 402 of the Federal Water Pollution Control
4 Act (33 U.S.C. 1342) is amended by adding at the end
5 the following:

6 “(r) SEWER OVERFLOW MONITORING, REPORTING,
7 AND NOTIFICATIONS.—

8 “(1) GENERAL REQUIREMENTS.—After the last
9 day of the 180-day period beginning on the date on
10 which regulations are issued under paragraph (4), a
11 permit issued, renewed, or modified under this sec-
12 tion by the Administrator or the State, as the case
13 may be, for a publicly owned treatment works shall
14 require, at a minimum, beginning on the date of the
15 issuance, modification, or renewal, that the owner or
16 operator of the treatment works—

17 “(A) institute and utilize a feasible meth-
18 odology, technology, or management program
19 for monitoring sewer overflows to alert the
20 owner or operator to the occurrence of a sewer
21 overflow in a timely manner;

22 “(B) in the case of a sewer overflow that
23 has the potential to affect human health, notify
24 the public of the overflow as soon as practicable
25 but not later than 24 hours after the time the
26 owner or operator knows of the overflow;

1 “(C) in the case of a sewer overflow that
2 may imminently and substantially endanger
3 human health, notify public health authorities
4 and other affected entities, such as public water
5 systems, of the overflow immediately after the
6 owner or operator knows of the overflow;

7 “(D) report each sewer overflow on its dis-
8 charge monitoring report to the Administrator
9 or the State, as the case may be, by describ-
10 ing—

11 “(i) the magnitude, duration, and sus-
12 pected cause of the overflow;

13 “(ii) the steps taken or planned to re-
14 duce, eliminate, or prevent recurrence of
15 the overflow; and

16 “(iii) the steps taken or planned to
17 mitigate the impact of the overflow; and

18 “(E) annually report to the Administrator
19 or the State, as the case may be, the total num-
20 ber of sewer overflows in a calendar year, in-
21 cluding—

22 “(i) the details of how much waste-
23 water was released per incident;

24 “(ii) the duration of each sewer over-
25 flow;

1 “(iii) the location of the overflow and
2 any potentially affected receiving waters;

3 “(iv) the responses taken to clean up
4 the overflow; and

5 “(v) the actions taken to mitigate im-
6 pacts and avoid further sewer overflows at
7 the site.

8 “(2) EXCEPTIONS.—

9 “(A) NOTIFICATION REQUIREMENTS.—The
10 notification requirements of paragraphs (1)(B)
11 and (1)(C) shall not apply a sewer overflow that
12 is a wastewater backup into a single-family resi-
13 dence.

14 “(B) REPORTING REQUIREMENTS.—The
15 reporting requirements of paragraphs (1)(D)
16 and (1)(E) shall not apply to a sewer overflow
17 that is a release of wastewater that occurs in
18 the course of maintenance of the treatment
19 works, is managed consistently with the treat-
20 ment works’ best management practices, and is
21 intended to prevent sewer overflows.

22 “(3) REPORT TO EPA.—Each State shall pro-
23 vide to the Administrator annually a summary of
24 sewer overflows that occurred in the State.

1 “(4) RULEMAKING BY EPA.—Not later than one
2 year after the date of enactment of this subsection,
3 the Administrator, after providing notice and an op-
4 portunity for public comment, shall issue regulations
5 to implement this subsection, including regulations
6 to—

7 “(A) establish a set of criteria to guide the
8 owner or operator of a publicly owned treat-
9 ment works in—

10 “(i) assessing whether a sewer over-
11 flow has the potential to affect human
12 health or may imminently and substan-
13 tially endanger human health; and

14 “(ii) developing communication meas-
15 ures that are sufficient to give notice
16 under paragraphs (1)(B) and (1)(C); and

17 “(B) define the terms ‘feasible’ and ‘time-
18 ly’ as such terms apply to paragraph (1)(A), in-
19 cluding site specific conditions.

20 “(5) APPROVAL OF STATE NOTIFICATION PRO-
21 GRAMS.—

22 “(A) REQUESTS FOR APPROVAL.—

23 “(i) IN GENERAL.—After the date of
24 issuance of regulations under paragraph
25 (4), a State may submit to the Adminis-

1 trator evidence that the State has in place
2 a legally enforceable notification program
3 that is substantially equivalent to the re-
4 quirements of paragraphs (1)(B) and
5 (1)(C).

6 “(ii) PROGRAM REVIEW AND AUTHOR-
7 IZATION.—If the evidence submitted by a
8 State under clause (i) shows the notifica-
9 tion program of the State to be substan-
10 tially equivalent to the requirements of
11 paragraphs (1)(B) and (1)(C), the Admin-
12 istrator shall authorize the State to carry
13 out such program instead of the require-
14 ments of paragraphs (1)(B) and (1)(C).

15 “(iii) FACTORS FOR DETERMINING
16 SUBSTANTIAL EQUIVALENCY.—In carrying
17 out a review of a State notification pro-
18 gram under clause (ii), the Administrator
19 shall take into account the scope of sewer
20 overflows for which notification is required,
21 the length of time during which notifica-
22 tion must be made, the scope of persons
23 who must be notified of sewer overflows,
24 the scope of enforcement activities ensur-
25 ing that notifications of sewer overflows

1 are made, and such other factors as the
2 Administrator considers appropriate.

3 “(B) REVIEW PERIOD.—If a State submits
4 evidence with respect to a notification program
5 under subparagraph (A)(i) on or before the last
6 day of the 30-day period beginning on the date
7 of issuance of regulations under paragraph (4),
8 the requirements of paragraphs (1)(B) and
9 (1)(C) shall not begin to apply to a publicly
10 owned treatment works located in the State
11 until the date on which the Administrator com-
12 pletes a review of the notification program
13 under subparagraph (A)(ii).

14 “(C) WITHDRAWAL OF AUTHORIZATION.—
15 If the Administrator, after conducting a public
16 hearing, determines that a State is not admin-
17 istering and enforcing a State notification pro-
18 gram authorized under subparagraph (A)(ii) in
19 accordance with the requirements of this para-
20 graph, the Administrator shall so notify the
21 State and, if appropriate corrective action is not
22 taken within a reasonable time, not to exceed
23 90 days, the Administrator shall withdraw au-
24 thorization of such program and enforce the re-

1 quirements of paragraphs (1)(B) and (1)(C)
2 with respect to the State.

3 “(6) SPECIAL RULES CONCERNING APPLICA-
4 TION OF NOTIFICATION REQUIREMENTS.—After the
5 last day of the 30-day period beginning on the date
6 of issuance of regulations under paragraph (4), the
7 requirements of paragraphs (1)(B) and (1)(C)
8 shall—

9 “(A) apply to the owner or operator of a
10 publicly owned treatment works and be subject
11 to enforcement under section 309, and

12 “(B) supersede any notification require-
13 ments contained in a permit issued under this
14 section for the treatment works to the extent
15 that the notification requirements are less strin-
16 gent than the notification requirements of para-
17 graphs (1)(B) and (1)(C),

18 until such date as a permit is issued, renewed, or
19 modified under this section for the treatment works
20 in accordance with paragraph (1).

21 “(7) DEFINITIONS.—In this subsection, the fol-
22 lowing definitions apply:

23 “(A) SEWER OVERFLOW.—The term ‘sewer
24 overflow’ means a sanitary sewer overflow or a
25 municipal combined sewer overflow.

1 “(B) SINGLE-FAMILY RESIDENCE.—The
2 term ‘single-family residence’ means an indi-
3 vidual dwelling unit, including an apartment,
4 condominium, house, or dormitory. Such term
5 does not include the common areas of a multi-
6 dwelling structure.”.

7 **SEC. 4. ELIGIBILITY FOR ASSISTANCE.**

8 (a) PURPOSE OF STATE REVOLVING FUND.—Section
9 601(a) of the Federal Water Pollution Control Act (33
10 U.S.C. 1381(a)) is amended—

11 (1) by striking “and” the first place it appears;
12 and

13 (2) by inserting after “section 320” the fol-
14 lowing: “, and (4) for the implementation of require-
15 ments to monitor for sewer overflows under section
16 402”.

17 (b) WATER POLLUTION CONTROL REVOLVING LOAN
18 FUNDS.—Section 603(c) of the Federal Water Pollution
19 Control Act (33 U.S.C. 1383(c)) is amended—

20 (1) by striking “and” the first place it appears;
21 and

22 (2) by inserting after “section 320 of this Act”
23 the following: “, and (4) for the implementation of

1 requirements to monitor for sewer overflows under
2 section 402”.

Passed the House of Representatives June 23, 2008.

Attest: LORRAINE C. MILLER,
Clerk.