

110TH CONGRESS
1ST SESSION

H. R. 2853

To require the Environmental Protection Agency to promptly notify State and local authorities and the public of certain enforcement actions under environmental laws.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2007

Mr. PATRICK J. MURPHY of Pennsylvania introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Environmental Protection Agency to promptly notify State and local authorities and the public of certain enforcement actions under environmental laws.

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 “Alerting Localities of
5 Environmental Risks and Threats (ALERT) Act”.

1 **SEC. 2. EPA NOTICE REQUIREMENT.**

2 (a) MANDATORY NOTICE TO STATE AND LOCAL GOV-
3 ERNMENTS.—The Administrator of the Environmental
4 Protection Agency shall promptly notify—

5 (1) the Governor of the State whenever the Ad-
6 ministrator (or the Attorney General) takes any of
7 the actions listed in subsection (b) with respect to
8 any violation in, or directly affecting, that State; and

9 (2) the head of each general purpose unit of
10 local government with jurisdiction over a political
11 subdivision in a State whenever the Administrator
12 (or the Attorney General) takes any of the actions
13 listed in subsection (b) with respect to any violation
14 in, or directly affecting, that political subdivision.

15 In the case of a violation that takes place in, or directly
16 affects, more than one State or political subdivision, The
17 Administrator shall notify the Governor of each such State
18 and the head of each general purpose unit of local govern-
19 ment for each such political subdivision.

20 (b) ACTIONS COVERED.—Each of the following ac-
21 tions taken with respect to any past, existing, or potential
22 violation of, or failure to comply with, any law adminis-
23 tered by the Environmental Protection Agency shall re-
24 quire notice under subsection (a):

25 (1) The Administrator makes an initial deter-
26 mination that it is more likely than not that an en-

1 enforcement action or remediation will be necessary
2 with respect to the violation or failure.

3 (2) The issuance or filing by the Administrator
4 of an administrative order or complaint with respect
5 to the violation or failure.

6 (3) The determination by the Administrator
7 that such an administrative order or complaint is
8 final.

9 (4) The settlement of an administrative com-
10 plaint or the date on which the Administrator deter-
11 mines that there has been compliance with an ad-
12 ministrative order.

13 (5) The transmittal by the Administrator of a
14 case relating to the violation or failure to the Attor-
15 ney General for enforcement action by the Attorney
16 General.

17 (6) The filing of a complaint or enforcement ac-
18 tion by the United States in any United States dis-
19 trict court or court of appeals.

20 (7) The entry by a court of a final order, con-
21 sent decree, or settlement order.

22 (8) The determination by the United States
23 that no further action will be taken with respect to
24 the violation concerned in any court of the United
25 States.

1 (c) FORM AND CONTENT OF NOTICE.—The notice to
2 State and local government officials under this Act shall
3 be in the form of a letter sent by registered mail and,
4 to the extent practicable, in the form of electronic mail.
5 The notice shall contain a summary of the nature and
6 scope of the violation concerned, the location of the viola-
7 tion (including the postal zip codes or codes affected by
8 the violation), the officer or employee of the Environ-
9 mental Protection Agency responsible for providing public
10 information with respect to the violation, notice of where
11 additional information can be obtained with respect to the
12 alleged violation and with respect to the corresponding ac-
13 tion referred to in subsection (b), and the date on which
14 such action was taken. The notice shall not contain any
15 confidential or proprietary information or any other infor-
16 mation that is not otherwise made public.

17 (d) PUBLIC NOTICE.—Any person may request a
18 copy of any notice sent to a State or local government
19 under paragraph (2), (3), (4), (5), (6), (7), or (8) of sub-
20 section (b) by identifying the type of action referred to
21 in subsection (b) for which notice is requested, the postal
22 zip code or codes for the area concerned, and the electronic
23 mail address of the requesting person. Following receipt
24 of such a request, the Administrator shall promptly trans-
25 mit a copy of the notice to such person by electronic mail

1 for each such action taken after the receipt of such re-
2 quest.

3 (e) SAVINGS PROVISIONS.—Nothing in this section,
4 including the failure of the Administrator to comply with
5 the requirements of this section, shall be construed to af-
6 fect the validity or invalidity of any action referred to in
7 subsection (b), to create any legally enforceable duty or
8 obligation on the part of the Administrator or any other
9 person with respect to any such action, or to affect the
10 liability of any person with regard to any violation of any
11 law or regulation.

12 (f) EFFECTIVE DATE.—Subsection (a) of this section
13 shall take effect with respect to actions described in sub-
14 section (b) that are taken after the date of the enactment
15 of this Act.

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