

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 2452

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## 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            requirements 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:

*Clerk.*

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