

112th CONGRESS

1st Session

**H. R. \_\_\_\_**

To promote environmental sustainability and ambient water quality by developing plans to address the most significant community wastewater treatment system issues in priority order, and to support economic sustainability of communities.

**IN THE HOUSE OF REPRESENTATIVES**

**June 3, 2011**

Mr./Ms. \_\_\_\_\_ (for himself/herself, \_\_\_\_\_) introduced the following bill; which was referred to the Committees on \_\_\_\_\_.

**A BILL**

To promote environmental sustainability and ambient water quality by developing plans to address the most significant community wastewater treatment system issues in priority order, and to support economic sustainability of communities.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SEC. 1. SHORT TITLE**

- (a) SHORT TITLE ---- This Act may be cited as the "Water Environmental Priorities Act."

## **SEC. 2 FINDINGS.**

The Congress finds that ----

- (a) Significant progress has been made in reducing the effects of community wastewater treatment system discharges to U.S. waters pursuant to the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1351 *et seq.* (the Clean Water Act);
- (b) Community wastewater treatment systems have provided leadership in environmental sustainability efforts under the Clean Water Act by investing over a trillion dollars constructing and rehabilitating wastewater and stormwater collection and treatment systems and implementing pollution controls and pollution prevention techniques to improve water quality;
- (c) Over the past four decades, as the Clean Water Act has been implemented and new compliance priorities have been established by the U.S. Environmental Protection Agency, new and innovative sustainability approaches such as green infrastructure, adaptive management and energy recovery have been developed, based on technical and scientific advances, to address challenges such as climate change, increased emphasis on wet weather runoff control, air deposition's significant effect on ambient water quality and other issues not contemplated when the Clean Water Act was enacted in 1972;

- (d) Community wastewater treatment systems will be required to fund hundreds of billions of dollars of additional investment in wastewater and stormwater treatment in the future to comply with the Clean Water Act, as detailed in, among other things, - - -
- (i) EPA’s 2008 Clean Watersheds Needs Survey, which estimates that the nation’s community wastewater treatment systems must invest over \$300 billion over the next 20 years to meet the expanding requirements of the Clean Water Act, in addition to a \$500 billion funding gap that EPA has identified is needed for investment in wastewater infrastructure systems over the next twenty years;
  - (ii) the U.S. Census Bureau’s statement that municipalities are spending over \$90 billion annually on water and wastewater infrastructure — an amount that is second only to education as a municipal budget item, and one that is greater than roads, hospitals, police and other essential services;
  - (iii) the American Society of Civil Engineers’ 2009 Infrastructure Report Card, which gave the nation’s wastewater infrastructure a grade of D-.
- (e) Many communities are facing serious budgetary shortfalls due to economic factors such as high unemployment, loss of jobs and population, increased energy costs, competing social, public health, educational and environmental demands, and the limited sources from which communities can raise funds, resulting in the need to set priorities for compliance and take into account new

affordability and financial capability considerations in setting compliance schedules under the Clean Water Act;

- (f) In order to comply with additional regulatory requirements prescribed by the U.S. Environmental Protection Agency pursuant to the Clean Water Act, to encourage the most cost-effective and innovative treatment and pollution prevention alternatives, to accommodate new scientific information or changed economic circumstances, to most expeditiously advance ambient water quality improvement, and to prevent undue economic hardship on ratepayers, the States and the U.S. Environmental Protection Agency shall create State priority plans for community wastewater treatment systems to meet regulatory compliance schedules.

### **SEC. 3. DEFINITIONS**

- (a) Except as otherwise specifically provided, when used in this Act, all terms shall have the meanings as provided in the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*
- (b) “Community wastewater treatment system,” means a municipal separate storm sewer system, a combined sewer overflow system, a publicly owned treatment works, a municipal wastewater collection system, or a stormwater or wastewater treatment or collection system owned or operated by a public-private partnership for the benefit of a community.
- (c) “State priority plan” means a plan developed by a State or the Administrator to identify the State’s highest priorities for community wastewater treatment in the State intended to improve ambient water quality, including but not limited to - - -

- (1) the types of sources that are adversely affecting the State’s ambient water quality;
  - (2) the types of actions that are most likely to improve the State’s ambient water quality;
  - (3) the most cost-effective actions that are likely to improve the State’s ambient water quality;
  - (4) innovative technologies that are likely to improve the State’s ambient water quality; and
  - (5) compliance with interstate agreements intended to improve ambient water quality in waters of the United States.
- (d) “Community wastewater treatment priority plan” means a priority plan developed by a community wastewater treatment system in compliance with this Act.

## **SEC. 4. DEVELOPING STATE PRIORITY PLANS AND COMMUNITY WASTEWATER TREATMENT SYSTEM PRIORITY PLAN**

### **APPROVAL**

- (a) In order to establish priorities for community compliance with the Federal Water Pollution Control Act, and to develop criteria for priority compliance, the water pollution control agency for each State shall, in consultation with the communities, and after opportunity for public notice and comment, not later than one year after enactment of this Act and every ten years thereafter, identify and publish statewide or regional community wastewater treatment environmental priorities.

- (b) The Administrator shall promptly prepare and publish a proposed priority plan for any State that fails to develop a priority plan in accordance with the provisions of this Act.
- (c) Community wastewater treatment system priority plans shall achieve progress toward measurable water quality benefits, promote the most cost-effective wastewater treatment and pollution prevention improvements for community wastewater treatment systems, and consider the financial capability of communities and community wastewater treatment systems. To achieve these objectives, the States or the Administrator shall consider - - -
  - (1) the relative contribution of pollution from community wastewater treatment systems to waters of the United States, in comparison to other sources of water pollution and naturally occurring alteration of ambient water quality;
  - (2) the costs of new or additional regulatory requirements imposed on a community by EPA or a State pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*;
  - (3) the fiscal and environmental costs and benefits of additional treatment of discharges from community wastewater treatment systems to waters of the U.S.;
  - (4) the costs and benefits of implementation of area wide waste water management under 33 U.S.C. § 1288 or other watershed planning and implementation practices;

- (5) the overall ecological benefits and long term sustainability of green infrastructure, adaptive management or other innovative treatment technologies as alternative treatment for compliance;
  - (6) the public health costs and benefits of alternative treatment for community waste water treatment systems;
  - (7) the public health and environmental benefits of collection system maintenance and improvements compared to additional treatment requirements for community wastewater treatment systems;
  - (8) the financial capability of the community;
  - (9) local climatic, economic and population variations; and episodic flow impacts compared to acute or chronic impacts in calculating water quality standards; and
  - (10) compliance with interstate agreements intended to improve ambient water quality in waters of the United States.
- (d) The state priority plan shall establish an application process for community wastewater treatment priority plan approval that encourages community involvement in the development of the application and minimizes the paperwork requirements for community wastewater treatment systems to prepare and submit the applications.
- (e) A community wastewater treatment system seeking to develop and implement a community wastewater treatment priority plan shall submit an application to the State, or the Administrator, as appropriate, The State, or the Administrator, as

appropriate, shall within sixty (60) days review and approve the priority plan application if it is justified by the submittal of - - -

- (1) new scientific data, modeling or other predictive calculations; or
  - (2) proposed innovative treatment approaches, including but not limited to adaptive management, watershed management, water quality trading, constructed wetlands or green infrastructure approaches; or
  - (3) changed circumstances, including but not limited to
    - (i) new or additional regulatory, permitting or other enforceable requirements, including judicial or administrative consent orders;
    - (ii) efficacy of treatment and management techniques previously implemented;
    - (iii) watershed protection implementation;
    - (iv) water conservation or changes in demand and usage;
    - (v) changes in population served; or
    - (vi) changes in the financial capability of the community.
- (f) A community wastewater treatment priority plan application may be submitted by a community wastewater treatment system to the State, or the Administrator, as appropriate, at any time.
- (g) An application for approval of a community wastewater treatment priority plan shall be approved by the State or by the Administrator, as appropriate, within 60 (sixty) days after receipt if the community wastewater treatment priority plan proposed by the applicant will, except for compliance dates, meet the regulatory



requirements of the Clean Water Act in a priority manner, taking into account the financial capability of the community.

- (h) Notwithstanding any other provision of the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, community wastewater treatment systems may comply with the provisions of the Act in a manner and time frame consistent with their priority plan as approved by the State and the Administrator. Permits issued pursuant to 33 U.S.C. 1342 shall be modified in accordance with an approved community wastewater treatment system priority plan. If requested by a community wastewater treatment system, the State or the Administrator, as appropriate, shall seek modification of a judicial or administrative order that is inconsistent with an approved priority plan.
- (i) Financial capability of the community and community wastewater treatment system shall be determined considering the total federal regulatory burden, existing and projected public health needs, and current and projected economic factors such as unemployment rates, tax burden, and the economic costs and benefits of additional or more stringent discharge permitting requirements for the community wastewater treatment system.

## **SEC. 5. PERMIT TERM LIMITS**

The Federal Water Pollution Control Act is amended by striking Section 402 (b) (1) (B), and by inserting:

“(b) (1) (B) are for fixed terms not exceeding ten years; and”.