

[DISCUSSION DRAFT]110TH CONGRESS
2^D SESSION**H. R.** _____

To amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BISHOP of New York introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Water Pollution Control Act to ensure that sewage treatment plants monitor for and report discharges of raw sewage, 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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The Centers for Disease Control and Pre-
2 vention estimates that there are 7,100,000 cases of
3 mild to moderate, and 560,000 cases of moderate to
4 severe, infectious waterborne disease in the United
5 States each year though exactly how many of these
6 are attributable to sewer overflows remains uncer-
7 tain.

8 (2) Inadequately treated sewage contains bac-
9 teria, viruses, parasites, and worms that can make
10 people sick.

11 (3) People who ingest or inhale inadequately
12 treated sewage can contract gastroenteritis, hepa-
13 titis, giardiasis, cryptosporidiosis, dysentery, and
14 other gastrointestinal and respiratory diseases.

15 (4) The Administrator of the Environmental
16 Protection Agency has estimated that between
17 1,800,000 and 3,500,000 individuals in the United
18 States become ill every year just from swimming in
19 water contaminated by sanitary sewer overflows;

20 (5) A 2006 study by University of California at
21 Los Angeles and Stanford scientists finds that there
22 are 627,800 to 1,479,200 excess cases of gastro-
23 intestinal illness at beaches in 2 California counties
24 alone every year.

1 (6) Sewage treatment operators perform an im-
2 portant job that—

3 (A) helps protect the public; and

4 (B) is critical in achieving the goals of the
5 Federal Water Pollution Control Act (33 U.S.C.
6 1251 et seq.);

7 (7) The wastewater systems of the United
8 States are aging and require significant investment
9 in traditional and green infrastructure to prevent
10 the occurrence of sewer overflows.

11 (8) Public notification of sewer overflows that
12 threaten public health will—

13 (A) protect the public; and

14 (B) increase recognition and support for
15 needed investment in infrastructure to address
16 stormwater and sewer overflows.

17 (9) Many sewer systems do not routinely mon-
18 itor to detect sewer overflows or report those that do
19 occur to environmental or public health agencies.

20 (10) Better monitoring, reporting, and public
21 notification of sewer overflows would have beneficial
22 health impacts and would be a step toward a much-
23 needed, comprehensive sanitary sewer overflow rule.
24 The comprehensive rule would also serve the purpose
25 of ensuring that satellite collection systems (portions

1 of a sanitary sewer system owned or operated by a
2 different entity than the public agency that owns
3 and operates the publicly owned treatment facility)
4 accounting for a majority of sanitary sewer overflows
5 would be brought into a sewer overflow control pro-
6 gram.

7 (11) Public health authorities are not routinely
8 notified of sewer overflows that threaten public
9 health.

10 **SEC. 3. DEFINITIONS.**

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

14 “(25) **SANITARY SEWER OVERFLOW.**—The term
15 ‘sanitary sewer overflow’ means an overflow, spill,
16 release, or diversion of wastewater from a sanitary
17 sewer system. Such term does not include combined
18 sewer overflows or other discharges from the com-
19 bined portions of a combined sewer system and does
20 not include wastewater backups into buildings
21 caused by a blockage or other malfunction of a
22 building lateral that is privately owned. Such term
23 includes overflows or releases of wastewater that
24 reach waters of the United States, overflows or re-
25 leases of wastewater in the United States that do

1 not reach waters of the United States, and waste-
2 water backups into buildings that are caused by
3 blockages or flow conditions in a sanitary sewer
4 other than a building lateral.

5 “(26) COMBINED SEWER OVERFLOW.—The
6 term ‘combined sewer overflow’ means an overflow,
7 spill, release or diversion of wastewater from a com-
8 bined sewer system at a point prior to the publicly
9 owned treatment works treatment plant.

10 “(27) SEWER OVERFLOW.—The term ‘sewer
11 overflow’ means a sanitary sewer overflow or a com-
12 bined sewer overflow.”.

13 **SEC. 4. MONITORING, REPORTING, AND PUBLIC NOTIFICA-**
14 **TION OF SEWER OVERFLOWS.**

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

18 “(r) SEWER OVERFLOW NOTIFICATIONS.—

19 “(1) GENERAL REQUIREMENTS.—Not later
20 than one year after the date of enactment of this
21 section, the Administrator shall take such action as
22 may be necessary to ensure that each permit issued
23 under this section before, on, or after the date of en-
24 actment of this subsection for a publicly owned
25 treatment works shall require, at a minimum, that

1 the owner or operator of the publicly owned treat-
2 ment works (as defined in section 403.3(p) of the
3 Code of Federal Regulations, as in effect on March
4 1, 2007)—

5 “(A) institute and utilize a feasible meth-
6 odology, technology, or management program
7 that will alert the owner or operator to the oc-
8 currence of a sewer overflow in a timely man-
9 ner;

10 “(B) notify the public of a sewer overflow
11 in any area where the sewer overflow has the
12 potential to affect human health, except for
13 overflows that are wastewater backups into
14 buildings of single-family residences;

15 “(C) notify the public as soon as prac-
16 ticable but not later than 24 hours of the time
17 the owner or operator becomes aware of the
18 overflow;

19 “(D) immediately notify public health au-
20 thorities and other affected entities, such as
21 public water systems, of any sewer overflow
22 that may imminently and substantially endan-
23 ger human health, except for overflows that are
24 wastewater backups into buildings of single-
25 family residences;

“(E) report each sewer overflow (other than a release of wastewater that occurs in the course of maintenance of the treatment works, is managed consistently with the treatment works’ best management practices, and is intended to prevent overflows) on its monthly discharge monitoring report to the Administrator or the State, as the case may be, be describing—

“(i) the magnitude, duration, and suspected cause of the overflow;

“(ii) the steps taken or planned to reduce, eliminate, and prevent recurrence of the overflow; and

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

“(F) report to the Administrator or the State, as the case may be, the total number of sewer overflows including sewer overflows that do not reach any waters of the United States (other than a release of wastewater that occurs in the course of maintenance of the treatment works, is managed consistently with the facility’s treatment works’ best management practices, and is intended to prevent overflows) in a

1 calendar year, including the details of how
2 much wastewater was released per incident, the
3 duration of each sewer overflow, the location of
4 the overflow and any potentially affected receiv-
5 ing waters, the responses taken to clean up the
6 overflow, and the actions taken to mitigate im-
7 pacts and avoid further sewer overflows at the
8 site.

9 “(2) REPORT TO EPA.—If a State receives a re-
10 port under paragraph (1)(F), the State shall report
11 to the Administrator annually, in summary, the de-
12 tails of reported sewer overflows that occurred in
13 that State.

14 “(3) GUIDANCE BY EPA.—Not later than 1 year
15 after the date of enactment of this subsection, the
16 Administrator shall—

17 “(A) establish a set of criteria to guide
18 publicly owned treatment works in assessing
19 whether an overflow has the potential to affect
20 human health or may imminently and substan-
21 tially endanger human health; and

22 “(B) establish a set of criteria to define
23 the terms ‘feasible’ and ‘timely’ as such terms
24 apply to paragraph (1)(A).

1 “(4) SITE SPECIFIC CONDITIONS.—The criteria
2 under paragraph (3) shall include, but need not be
3 limited to, site specific conditions.

4 “(5) SINGLE FAMILY RESIDENCE DEFINED.—In
5 this subsection, the term ‘single-family residence’
6 means individual living units, including apartments,
7 condominiums, houses, and dormitories.”.

8 **SEC. 5. ELIGIBILITY FOR ASSISTANCE.**

9 Sections [601(a) and] 603(c) of the Federal Water
10 Pollution Control Act (33 U.S.C. 1383(a) and (c)) are
11 each amended—

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

14 (2) by inserting after “320 of this Act” the fol-
15 lowing: “, and (4) for the implementation of require-
16 ments to monitor for sewer overflows under section
17 402”.

18 **SEC. 6. LIMITATION ON STATUTORY CONSTRUCTION.**

19 Nothing in this Act, including any amendment made
20 by this Act, shall be construed—

21 (1) to limit the ability of any State from imple-
22 menting and enforcing more stringent monitoring
23 and notification standards than those required by
24 the Federal Water Pollution Control Act (33 U.S.C.
25 1251 et seq.); or

1 (2) to supplant or diminish obligations to com-
2 ply with all other requirements of the Federal Water
3 Pollution Control Act.