

111TH CONGRESS  
1ST SESSION

# H. R. 54

To amend the Federal Water Pollution Control Act to establish a deadline for restricting sewage dumping into the Great Lakes and to fund programs and activities for improving wastewater discharges into the Great Lakes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. KIRK (for himself and Mr. LIPINSKI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the Federal Water Pollution Control Act to establish a deadline for restricting sewage dumping into the Great Lakes and to fund programs and activities for improving wastewater discharges into the Great Lakes.

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 “Great Lakes Water  
5       Protection Act”.

1 **SEC. 2. PROHIBITION ON SEWAGE DUMPING INTO THE**  
2 **GREAT LAKES.**

3 Section 402 of the Federal Water Pollution Control  
4 Act (22 U.S.C. 1342) is amended by adding at the end  
5 the following:

6 “(s) PROHIBITION ON SEWAGE DUMPING INTO THE  
7 GREAT LAKES.—

8 “(1) IN GENERAL.—A publicly owned treatment  
9 works is prohibited from intentionally diverting  
10 waste streams to bypass any portion of a treatment  
11 facility at the treatment works if the diversion re-  
12 sults in a discharge into the Great Lakes unless—

13 “(A)(i) the bypass is unavoidable to pre-  
14 vent loss of life, personal injury, or severe prop-  
15 erty damage;

16 “(ii) there is not a feasible alternative to  
17 the bypass, such as the use of auxiliary treat-  
18 ment facilities, retention of untreated wastes, or  
19 maintenance during normal periods of equip-  
20 ment downtime; and

21 “(iii) the treatment works provides notice  
22 of the bypass in accordance with the require-  
23 ments of this subsection; or

24 “(B) the bypass does not cause effluent  
25 limitations to be exceeded, and the bypass is for

1           essential maintenance to ensure efficient oper-  
2           ation of the treatment facility.

3           “(2) LIMITATION.—The requirement of para-  
4           graph (1)(A)(ii) is not satisfied if adequate back-up  
5           equipment should have been installed in the exercise  
6           of reasonable engineering judgment to prevent the  
7           bypass and the bypass occurred during normal peri-  
8           ods of equipment downtime or preventive mainte-  
9           nance.

10           “(3) NOTICE REQUIREMENTS.—A publicly  
11           owned treatment works shall provide to the Adminis-  
12           trator (or to the State in the case of a State that  
13           has a permit program approved under this sec-  
14           tion)—

15                   “(A) prior notice of an anticipated bypass;  
16                   and

17                   “(B) notice of an unanticipated bypass  
18                   within 24 hours following the time the treat-  
19                   ment works first becomes aware of the bypass.

20           “(4) FOLLOW-UP NOTICE REQUIREMENTS.—In  
21           the case of an unanticipated bypass for which a pub-  
22           licly owned treatment works provides notice under  
23           paragraph (3)(B), the treatment works shall provide  
24           to the Administrator (or to the State in the case of  
25           a State that has a permit program approved under

1 this section), not later than 5 days following the  
2 date on which the treatment works first becomes  
3 aware of the bypass, a follow-up notice containing a  
4 description of—

5 “(A) the cause of the bypass;

6 “(B) the reason for the bypass;

7 “(C) the period of bypass, including the  
8 exact dates and times;

9 “(D) if the bypass has not been corrected,  
10 the anticipated time the bypass is expected to  
11 continue;

12 “(E) the volume of the discharge resulting  
13 from the bypass;

14 “(F) any public access areas that may be  
15 impacted by the bypass; and

16 “(G) steps taken or planned to reduce,  
17 eliminate, and prevent reoccurrence of the by-  
18 pass.

19 “(5) PUBLIC AVAILABILITY OF NOTICES.—A  
20 publicly owned treatment works providing a notice  
21 under this subsection, and the Administrator (or the  
22 State in the case of a State that has a permit pro-  
23 gram approved under this section) receiving such a  
24 notice, shall each post the notice, within 48 hours of  
25 providing or receiving the notice (as the case may

1 be), in a searchable database accessible on the Inter-  
2 net.

3 “(6) SEWAGE BLENDING.—Bypasses prohibited  
4 by this section include bypasses resulting in dis-  
5 charges from a publicly owned treatment works that  
6 consist of effluent routed around treatment units  
7 and thereafter blended together with effluent from  
8 treatment units prior to discharge.

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

11 “(A) BYPASS.—The term ‘bypass’ means  
12 an intentional diversion of waste streams to by-  
13 pass any portion of a treatment facility which  
14 results in a discharge into the Great Lakes.

15 “(B) GREAT LAKES.—The term ‘Great  
16 Lakes’ has the meaning given such term by sec-  
17 tion 118(a)(3).

18 “(C) TREATMENT FACILITY.—The term  
19 ‘treatment facility’ includes all wastewater  
20 treatment units used by a publicly owned treat-  
21 ment works to meet secondary treatment stand-  
22 ards or higher, as required to attain water qual-  
23 ity standards, under any operating conditions.

1           “(D) TREATMENT WORKS.—The term  
2           ‘treatment works’ has the meaning given that  
3           term in section 212.

4           “(8) IMPLEMENTATION.—Not later than 180  
5           days after the date of enactment of this subsection,  
6           the Administrator shall establish procedures to en-  
7           sure that permits issued under this section (or under  
8           a State permit program approved under this section)  
9           to a publicly owned treatment works include require-  
10          ments to implement this subsection.

11          “(9) INCREASE IN MAXIMUM CIVIL PENALTY  
12          FOR VIOLATIONS OCCURRING AFTER JANUARY 1,  
13          2029.—Notwithstanding any provision of section 309,  
14          in the case of a violation of this subsection occurring  
15          on or after January 1, 2029, or any violation of a  
16          permit limitation or condition implementing this  
17          subsection occurring after such date, the maximum  
18          civil penalty which shall be assessed for the violation  
19          shall be \$100,000 per day for each day the violation  
20          occurs.

21          “(10) APPLICABILITY.—This subsection shall  
22          apply to a bypass occurring after the last day of the  
23          one-year period beginning on the date of enactment  
24          of this subsection.”.

1 **SEC. 3. ESTABLISHMENT OF GREAT LAKES CLEANUP FUND.**

2 (a) IN GENERAL.—Title V of the Federal Water Pol-  
3 lution Control Act (33 U.S.C. 1361 et seq.) is amended  
4 by redesignating section 519 as section 520 and inserting  
5 after section 518 the following:

6 **“SEC. 519. ESTABLISHMENT OF GREAT LAKES CLEANUP**  
7 **FUND.**

8 “(a) CREATION OF FUND.—There is established in  
9 the Treasury of the United States a trust fund to be  
10 known as the ‘Great Lakes Cleanup Fund’ (in this section  
11 referred to as the ‘Fund’).

12 “(b) TRANSFERS TO FUND.—Effective January 1,  
13 2029, there are authorized to be appropriated to the Fund  
14 amounts equivalent to the penalties collected for violations  
15 of section 402(s).

16 “(c) ADMINISTRATION OF FUND.—The Adminis-  
17 trator shall administer the Fund.

18 “(d) USE OF FUNDS.—The Administrator shall make  
19 the amounts in the Fund available to the Great Lakes  
20 States for programs and activities for improving waste-  
21 water discharges into the Great Lakes, including habitat  
22 protection and wetland restoration. The Administrator  
23 shall allocate such amounts among the Great Lakes States  
24 based on the proportional amount attributable to each  
25 Great Lakes State for penalties collected for violations of  
26 section 402(s).

1       “(e) PRIORITY.—In selecting programs and activities  
2 to be funded using amounts made available under this sec-  
3 tion, a Great Lakes State shall give priority consideration  
4 to programs and activities that address violations of sec-  
5 tion 402(s) resulting in the collection of penalties.

6       “(f) DEFINITIONS.—In this section, the terms ‘Great  
7 Lakes’ and ‘Great Lakes States’ have the meanings given  
8 such terms in section 118(a)(3).”.

9       (b) CONFORMING AMENDMENT TO STATE REVOLV-  
10 ING FUND PROGRAM.—Section 607 of such Act (33  
11 U.S.C. 1387) is amended—

12           (1) by inserting “(a) IN GENERAL.—” before  
13       “‘There is’”; and

14           (2) by adding at the end the following:

15       “(b) TREATMENT OF GREAT LAKES CLEANUP  
16 FUND.—For purposes of this title, amounts made avail-  
17 able from the Great Lakes Cleanup Fund under section  
18 519 shall be treated as funds authorized to be appro-  
19 priated to carry out this title and as funds made available  
20 under this title, except that such funds shall be made  
21 available to the Great Lakes States as provided in section  
22 519.”.

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