

114TH CONGRESS
1ST SESSION

S. 1586

To amend the Federal Water Pollution Control Act to prohibit sewage dumping into the Great Lakes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2015

Mr. KIRK introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to prohibit sewage dumping into the Great Lakes, 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 “Great Lakes Water
5 Protection Act”.

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

8 (a) IN GENERAL.—Section 402 of the Federal Water
9 Pollution Control Act (33 U.S.C. 1342) is amended by
10 adding at the end the following:

1 “(s) PROHIBITION ON SEWAGE DUMPING INTO THE
2 GREAT LAKES.—

3 “(1) DEFINITIONS.—In this subsection:

4 “(A) BYPASS.—The term ‘bypass’ means
5 an intentional diversion of waste streams to by-
6 pass any portion of a treatment facility that re-
7 sults in a discharge into the Great Lakes.

8 “(B) DISCHARGE.—

9 “(i) IN GENERAL.—The term ‘dis-
10 charge’ means a direct or indirect dis-
11 charge of untreated sewage or partially
12 treated sewage from a treatment works
13 into the Great Lakes or a tributary of the
14 Great Lakes.

15 “(ii) INCLUSIONS.—The term ‘dis-
16 charge’ includes a bypass and a combined
17 sewer overflow.

18 “(C) GREAT LAKES.—The term ‘Great
19 Lakes’ has the meaning given the term in sec-
20 tion 118(a)(3).

21 “(D) PARTIALLY TREATED SEWAGE.—The
22 term ‘partially treated sewage’ means any sew-
23 age, sewage and storm water, or sewage and
24 wastewater, from domestic or industrial sources
25 that—

1 “(i) is not treated to national sec-
2 ondary treatment standards for waste-
3 water; or

4 “(ii) is treated to a level less than the
5 level required by the applicable national
6 pollutant discharge elimination system per-
7 mit.

8 “(E) TREATMENT FACILITY.—The term
9 ‘treatment facility’ includes all wastewater
10 treatment units used by a publicly owned treat-
11 ment works to meet secondary treatment stand-
12 ards or higher, as required to attain water qual-
13 ity standards, under any operating conditions.

14 “(F) TREATMENT WORKS.—The term
15 ‘treatment works’ has the meaning given the
16 term in section 212.

17 “(2) PROHIBITION.—A publicly owned treat-
18 ment works is prohibited from performing a bypass
19 unless—

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

23 “(ii) there is not a feasible alternative to
24 the bypass, such as the use of auxiliary treat-
25 ment facilities, retention of untreated wastes, or

1 maintenance during normal periods of equip-
2 ment downtime; and

3 “(iii) the treatment works provides notice
4 of the bypass in accordance with this sub-
5 section; or

6 “(B) the bypass does not cause effluent
7 limitations to be exceeded, and the bypass is for
8 essential maintenance to ensure efficient oper-
9 ation of the treatment facility.

10 “(3) LIMITATION.—The requirement of para-
11 graph (2)(A)(ii) is not satisfied if—

12 “(A) adequate back-up equipment should
13 have been installed in the exercise of reasonable
14 engineering judgment to prevent the bypass;
15 and

16 “(B) the bypass occurred during normal
17 periods of equipment downtime or preventive
18 maintenance.

19 “(4) IMMEDIATE NOTICE REQUIREMENTS.—

20 “(A) IN GENERAL.—The Administrator
21 shall work with States having publicly owned
22 treatment works subject to the requirements of
23 this subsection to create immediate notice re-
24 quirements in the event of discharge that pro-

1 vide for the method, contents, and requirements
2 for public availability of the notice.

3 “(B) MINIMUM REQUIREMENTS.—

4 “(i) IN GENERAL.—At a minimum,
5 the contents of the notice shall include—

6 “(I) the exact dates and times of
7 the discharge;

8 “(II) the volume of the discharge;
9 and

10 “(III) a description of any public
11 access areas impacted.

12 “(ii) CONSISTENCY.—Minimum re-
13 quirements shall be consistent for all
14 States.

15 “(C) ADDITIONAL REQUIREMENTS.—The
16 Administrator and States described in subpara-
17 graph (A) shall include—

18 “(i) follow-up notice requirements
19 that provide a more full description of each
20 event, the cause, and plans to prevent reoc-
21 currence; and

22 “(ii) annual publication requirements
23 that list each treatment works from which
24 the Administrator or the State receive a
25 follow-up notice.

1 “(D) TIMING.—The notice and publication
2 requirements described in this paragraph shall
3 be implemented not later than 2 years after the
4 date of enactment of this subsection.

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

11 “(6) IMPLEMENTATION.—As soon as prac-
12 ticable, the Administrator shall establish procedures
13 to ensure that permits issued under this section (or
14 under a State permit program approved under this
15 section) to a publicly owned treatment works include
16 requirements to implement this subsection.

17 “(7) INCREASE IN MAXIMUM CIVIL PENALTY
18 FOR VIOLATIONS OCCURRING AFTER JANUARY 1,
19 2035.—Notwithstanding section 309, in the case of a
20 violation of this subsection occurring on or after
21 January 1, 2035, or any violation of a permit limita-
22 tion or condition implementing this subsection occur-
23 ring after that date, the maximum civil penalty that
24 shall be assessed for the violation shall be \$100,000
25 per day for each day the violation occurs.

1 “(8) APPLICABILITY.—This subsection shall
2 apply to a bypass occurring after the last day of the
3 1-year period beginning on the date of enactment of
4 this subsection.”.

5 (b) GREAT LAKES CLEANUP FUND.—

6 (1) ESTABLISHMENT.—Title V of the Federal
7 Water Pollution Control Act (33 U.S.C. 1361 et
8 seq.) is amended—

9 (A) by redesignating section 519 (33
10 U.S.C. 1251 note) as section 520; and

11 (B) by inserting after section 518 (33
12 U.S.C. 1377) the following:

13 **“SEC. 519. ESTABLISHMENT OF GREAT LAKES CLEANUP**
14 **FUND.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) FUND.—The term ‘Fund’ means the Great
17 Lakes Cleanup Fund established by subsection (b).

18 “(2) GREAT LAKES; GREAT LAKES STATES.—
19 The terms ‘Great Lakes’ and ‘Great Lakes States’
20 have the meanings given the terms in section
21 118(a)(3).

22 “(b) ESTABLISHMENT OF FUND.—There is estab-
23 lished in the Treasury of the United States a trust fund
24 to be known as the ‘Great Lakes Cleanup Fund’ (referred
25 to in this section as the ‘Fund’).

1 “(c) TRANSFERS TO FUND.—Effective January 1,
2 2035, there are authorized to be appropriated to the Fund
3 amounts equivalent to the penalties collected for violations
4 of section 402(s).

5 “(d) ADMINISTRATION OF FUND.—The Adminis-
6 trator shall administer the Fund.

7 “(e) USE OF FUNDS.—The Administrator shall—

8 “(1) make the amounts in the Fund available
9 to the Great Lakes States for use in carrying out
10 programs and activities for improving wastewater
11 discharges into the Great Lakes, including habitat
12 protection and wetland restoration; and

13 “(2) allocate those amounts among the Great
14 Lakes States based on the proportion that—

15 “(A) the amount attributable to a Great
16 Lakes State for penalties collected for violations
17 of section 402(s); bears to

18 “(B) the total amount of those penalties
19 attributable to all Great Lakes States.

20 “(f) PRIORITY.—In selecting programs and activities
21 to be funded using amounts made available under this sec-
22 tion, a Great Lakes State shall give priority consideration
23 to programs and activities that address violations of sec-
24 tion 402(s) resulting in the collection of penalties.”.

1 (2) CONFORMING AMENDMENTS TO STATE RE-
2 VOLVING FUND PROGRAM.—Section 607 of the Fed-
3 eral Water Pollution Control Act (33 U.S.C. 1387)
4 is amended—

5 (A) by striking “There is” and inserting
6 “(a) In General.—There is”; and

7 (B) by adding at the end the following:

8 “(b) TREATMENT OF GREAT LAKES CLEANUP
9 FUND.—For purposes of this title, amounts made avail-
10 able from the Great Lakes Cleanup Fund under section
11 519 shall be treated as funds authorized to be appro-
12 priated to carry out this title and as funds made available
13 under this title, except that the funds shall be made avail-
14 able to the Great Lakes States in accordance with section
15 519.”.

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