

116TH CONGRESS  
1ST SESSION

# S. 2210

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

JULY 23, 2019

Ms. DUCKWORTH (for herself and Mr. DURBIN) 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. RESTRICTION ON WASTEWATER RELEASES INTO**  
7 **THE GREAT LAKES SYSTEM.**

8 (a) IN GENERAL.—

1           (1) RESTRICTION.—Section 402 of the Federal  
2           Water Pollution Control Act (33 U.S.C. 1342) is  
3           amended by adding at the end the following:

4           “(t) RESTRICTION ON WASTEWATER RELEASES INTO  
5           THE GREAT LAKES SYSTEM.—

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

7                   “(A) BYPASS.—The term ‘bypass’ means,  
8                   with respect to a treatment facility that dis-  
9                   charges into the Great Lakes System, an inten-  
10                  tional diversion of waste streams from any por-  
11                  tion of the treatment facility.

12                   “(B) GREAT LAKES SYSTEM.—The term  
13                   ‘Great Lakes System’ has the meaning given  
14                   the term in section 118(a)(3).

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

21                   “(D) TREATMENT WORKS.—The term  
22                   ‘treatment works’ has the meaning given the  
23                   term in section 212.

24                   “(2) RESTRICTION.—A publicly owned treat-  
25                   ment works that discharges into the Great Lakes

1 System is prohibited from performing a bypass un-  
2 less—

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

6 “(ii) there is not a feasible alternative to  
7 the bypass, such as the use of auxiliary treat-  
8 ment facilities, retention of untreated wastes, or  
9 maintenance during normal periods of equip-  
10 ment downtime; and

11 “(iii) the treatment works provides notice  
12 of the bypass in accordance with paragraph (4);  
13 or

14 “(B) the bypass—

15 “(i) does not cause effluent limitations  
16 to be exceeded; and

17 “(ii) is for essential maintenance to  
18 ensure efficient operation of the treatment  
19 facility.

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

22 “(A) adequate back-up equipment should  
23 have been installed in the exercise of reasonable  
24 engineering judgment to prevent the bypass;  
25 and

1           “(B) the bypass occurred during normal  
2 periods of equipment downtime or preventive  
3 maintenance.

4           “(4) IMMEDIATE NOTICE REQUIREMENTS.—

5           “(A) IN GENERAL.—The Administrator  
6 shall work with States having publicly owned  
7 treatment works subject to paragraph (2) to  
8 create immediate notice requirements in the  
9 event of a bypass or a combined sewer overflow  
10 that provide for the method, contents, and re-  
11 quirements for public availability of the notice.

12           “(B) MINIMUM INITIAL NOTICE REQUIRE-  
13 MENTS.—At a minimum, the contents of the  
14 immediate notice under subparagraph (A) shall  
15 include—

16           “(i) the exact dates and times of the  
17 bypass or combined sewer overflow;

18           “(ii) the volume of the bypass or com-  
19 bined sewer overflow; and

20           “(iii) a description of any public ac-  
21 cess areas impacted.

22           “(C) ADDITIONAL REQUIREMENTS.—The  
23 Administrator and States described in subpara-  
24 graph (A) shall—

1           “(i) ensure that the minimum require-  
2           ments under subparagraph (B) are con-  
3           sistent for all those States;

4           “(ii) establish follow-up notice require-  
5           ments that provide a full description of  
6           each event (including water quality data),  
7           the cause, and plans to prevent reoccur-  
8           rence; and

9           “(iii) establish requirements for mak-  
10          ing publicly available, including on the  
11          website of the Administrator, a list of each  
12          treatment works from which the Adminis-  
13          trator or the State received a follow-up no-  
14          tice, along with the information required  
15          under clause (ii) for each event that re-  
16          quired a follow-up notice.

17          “(5) IMPLEMENTATION.—Not later than 2  
18          years after the date of enactment of this subsection,  
19          the Administrator shall establish procedures to im-  
20          plement this subsection.”.

21          (2) CONFORMING AMENDMENT.—Section 425  
22          of division G of the Consolidated Appropriations Act,  
23          2016 (Public Law 114–113; 33 U.S.C. 1268 note)  
24          is repealed.

1 (b) GREAT LAKES GREEN INFRASTRUCTURE DEVEL-  
2 OPMENT GRANT PROGRAM.—Title V of the Federal Water  
3 Pollution Control Act (33 U.S.C. 1361 et seq.) is amend-  
4 ed—

5 (1) by redesignating section 520 (33 U.S.C.  
6 1251 note) as section 521; and

7 (2) by inserting after section 519 (33 U.S.C.  
8 1377a) the following:

9 **“SEC. 520. ESTABLISHMENT OF GREAT LAKES GREEN IN-**  
10 **FRASTRUCTURE DEVELOPMENT GRANT PRO-**  
11 **GRAM.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) GREAT LAKES STATES; GREAT LAKES SYS-  
14 TEM.—The terms ‘Great Lakes States’ and ‘Great  
15 Lakes System’ have the meanings given the terms in  
16 section 118(a)(3).

17 “(2) GREEN INFRASTRUCTURE.—The term  
18 ‘green infrastructure’ has the meaning given the  
19 term in section 502.

20 “(3) LOW-INCOME COMMUNITY.—The term  
21 ‘low-income community’ has the meaning given the  
22 term in section 45D(e) of the Internal Revenue Code  
23 of 1986.

1           “(4) PROGRAM.—The term ‘Program’ means  
2           the Great Lakes Green Infrastructure Development  
3           Grant Program established under subsection (b).

4           “(5) SMALL BUSINESS.—The term ‘small busi-  
5           ness’ means a small business concern (as defined  
6           under section 3 of the Small Business Act (15  
7           U.S.C. 632)).

8           “(b) ESTABLISHMENT OF PROGRAM.—Not later than  
9           1 year after the date of enactment of the Great Lakes  
10          Water Protection Act, the Administrator shall establish a  
11          grant program, to be known as the ‘Great Lakes Green  
12          Infrastructure Grant Program’, under which the Adminis-  
13          trator shall make grants to Great Lakes States to fund  
14          programs and activities to develop green infrastructure  
15          projects.

16          “(c) APPLICATION.—

17                 “(1) IN GENERAL.—Each Great Lakes State  
18                 desiring a grant under the Program shall submit to  
19                 the Administrator an application at such time, in  
20                 such manner, and containing such information as  
21                 the Administrator may require.

22                 “(2) ASSESSMENT OF NEED AND URGENCY.—  
23                 Each application under paragraph (1) shall include  
24                 an assessment of the relative need and urgency of  
25                 the applicable program or activity for which the

1 Great Lakes State desires a grant under the Pro-  
2 gram, as compared to other programs and activities  
3 for which the Great Lakes State desires a grant  
4 under the Program during the same fiscal year, in-  
5 cluding an explanation of the reasons for any deter-  
6 mination of relative need and urgency.

7 “(d) ALLOCATION OF GRANT AWARDS.—

8 “(1) ALLOCATION AMONG GREAT LAKES  
9 STATES.—

10 “(A) IN GENERAL.—For each fiscal year,  
11 in awarding grants under the Program, the Ad-  
12 ministrator shall determine the maximum  
13 amount that may be awarded to each Great  
14 Lakes State based on the relative needs of each  
15 Great Lakes State, as determined by the most  
16 recent Clean Watersheds Needs Survey carried  
17 out by the Administrator pursuant to section  
18 516(b).

19 “(B) UNAWARDED AMOUNTS.—If the Sec-  
20 retary does not award to a Great Lakes State  
21 the maximum amount available to the Great  
22 Lakes State under subparagraph (A) for a fis-  
23 cal year, the Secretary shall make the remain-  
24 ing amounts for that fiscal year available to the  
25 Great Lakes State in subsequent fiscal years.



1           “(2) PRIORITY FOR CERTAIN PROJECTS.—

2                   “(A) IN GENERAL.—In awarding grants to  
3 a Great Lakes State under the Program, the  
4 Administrator shall give priority to applications  
5 to fund programs and activities that present the  
6 greatest need and urgency, as determined by  
7 the Administrator.

8                   “(B) CONSIDERATION OF STATE ASSESS-  
9                   MENT OF NEED AND URGENCY.—In making a  
10 determination of need and urgency under sub-  
11 paragraph (A), the Secretary shall take into  
12 consideration each applicable assessment of rel-  
13 ative need and urgency prepared by the Great  
14 Lakes State under subsection (c)(2).

15           “(e) SUBGRANTS.—A Great Lakes State receiving a  
16 grant under the Program may make subgrants to any en-  
17 tity or individual in the Great Lakes State for programs  
18 and activities to develop green infrastructure projects.

19           “(f) ALLOCATION OF GRANT FUNDS RECEIVED BY  
20 GREAT LAKES STATES.—

21                   “(1) IN GENERAL.—Of any amounts awarded  
22 to a Great Lakes State under the Program, the  
23 Great Lakes State shall ensure that—

24                           “(A) not less than 50 percent of those  
25 amounts are used for—

1           “(i) capital expenditures relating to  
2           green infrastructure projects, including any  
3           expenses for cost estimates or project plan-  
4           ning and design; and

5           “(ii) materials associated with capital  
6           expenditures relating to green infrastruc-  
7           ture projects, such as rain garden soils;

8           “(B) not less than 25 percent of those  
9           amounts are used for operations and mainte-  
10          nance of green infrastructure, including any ex-  
11          penses for developing operations and mainte-  
12          nance cost estimates; and

13          “(C) not more than 25 percent of those  
14          amounts are used for green infrastructure  
15          workforce training, except that, in the case of  
16          a workforce training program that provides  
17          dedicated maintenance labor for green infra-  
18          structure, amounts expended for green infra-  
19          structure workforce training may be considered  
20          to be amounts expended for operations and  
21          maintenance under subparagraph (B).

22          “(2) LIMITATION ON FUNDING FOR OPER-  
23          ATIONS AND MAINTENANCE.—Each entity or indi-  
24          vidual that receives amounts awarded to a Great  
25          Lakes State under the Program may use the

1 amounts received by that entity or individual for op-  
2 erations and maintenance of green infrastructure  
3 under paragraph (1)(B) for a total period of not  
4 more than 3 years.

5 “(3) SMALL BUSINESSES.—

6 “(A) IN GENERAL.—A Great Lakes State  
7 shall ensure that not less than 23 percent of  
8 the total amount awarded to the Great Lakes  
9 State under the Program is received by small  
10 businesses or nonprofit organizations in the  
11 Great Lakes State—

12 “(i) to construct green infrastructure  
13 projects; or

14 “(ii) to operate and maintain green  
15 infrastructure projects.

16 “(B) PERMISSIBLE ACTIVITIES.—

17 “(i) IN GENERAL.—The requirements  
18 under subparagraph (A) may be satis-  
19 fied—

20 “(I) by subgrants made to small  
21 businesses or nonprofit organizations  
22 by the Great Lakes State;

23 “(II) by contracts entered into by  
24 small businesses or nonprofit organi-  
25 zations (or labor unions representing

1 the employees of small businesses or  
2 nonprofit organizations) with the  
3 Great Lakes State; and

4 “(III) by subcontracts entered  
5 into by small businesses or nonprofit  
6 organizations (or labor unions rep-  
7 resenting the employees of small busi-  
8 nesses or nonprofit organizations)  
9 with the recipients of subgrants made  
10 by the Great Lakes State.

11 “(4) PRIORITY FOR CERTAIN PROGRAMS AND  
12 ACTIVITIES.—In selecting programs and activities to  
13 be funded using amounts made available under this  
14 section, a Great Lakes State shall give priority to  
15 programs and activities that reduce or eliminate by-  
16 passes (as defined in section 402(t)(1)) or combined  
17 sewer overflows.

18 “(5) LOW-INCOME COMMUNITIES.—A Great  
19 Lakes State is encouraged to use any amounts  
20 awarded to the Great Lakes State under the Pro-  
21 gram to fund green infrastructure projects located in  
22 low-income communities.

23 “(g) COST SHARE.—

24 “(1) IN GENERAL.—In awarding a grant to a  
25 Great Lakes State under the Program for programs

1 and activities, the Administrator may require the  
2 Great Lakes State to pay up to 50 percent of the  
3 costs of the programs and activities funded by the  
4 grant.

5 “(2) IN-KIND SUPPORT.—In-kind support for a  
6 program or activity, including staff time, provided by  
7 a Great Lakes State shall count toward the share of  
8 costs required to be paid by the Great Lakes State  
9 under paragraph (1).

10 “(h) AUTHORIZATION OF APPROPRIATIONS.—There  
11 is authorized to be appropriated to the Administrator to  
12 carry out this section \$250,000,000 for each of fiscal  
13 years 2021 through 2025, to remain available until ex-  
14 pended.”.

○