

109TH CONGRESS  
1ST SESSION

# H. R. 1126

To amend the Federal Water Pollution Control Act to prohibit a publicly owned treatment works from diverting flows to bypass any portion of its treatment facility.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2005

Mr. STUPAK (for himself, Ms. WOOLSEY, Mr. CASE, Mr. DAVIS of Illinois, Mr. VAN HOLLEN, Mr. KILDEE, Mr. SAXTON, Ms. SCHAKOWSKY, Mr. GRIJALVA, Mr. PLATTS, Mr. McNULTY, Mr. GENE GREEN of Texas, Ms. LORETTA SANCHEZ of California, Mr. WELDON of Pennsylvania, Mr. LYNCH, Mr. HINCHEY, Mr. BUTTERFIELD, Ms. WASSERMAN SCHULTZ, Mr. SMITH of New Jersey, Ms. SLAUGHTER, Mr. CUMMINGS, Ms. SCHWARTZ of Pennsylvania, Mr. JACKSON of Illinois, Mr. LANTOS, Mr. LAHOOD, Mr. MARKEY, Mr. LEVIN, Ms. CARSON, Mr. MILLER of Florida, Mr. BERMAN, Mr. HASTINGS of Florida, Mr. OWENS, Mr. KIRK, Mr. PALLONE, Mr. SHAW, Mr. FITZPATRICK of Pennsylvania, Mr. EMANUEL, and Mr. GILCHREST) 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 prohibit a publicly owned treatment works from diverting flows to bypass any portion of its treatment facility.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Save Our Waters From  
3 Sewage Act of 2005”.

4 **SEC. 2. PROHIBITION ON SEWAGE DUMPING.**

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

8 “(r) PROHIBITION ON SEWAGE DUMPING.—

9 “(1) IN GENERAL.—A publicly owned treatment  
10 works is prohibited from intentionally diverting  
11 waste streams to bypass any portion of a treatment  
12 facility at the treatment works 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 period of bypass, including the  
7       exact dates and times;

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

11               “(D) steps taken or planned to reduce,  
12       eliminate, and prevent reoccurrence of the by-  
13      pass.

14               “(5) PUBLIC AVAILABILITY OF NOTICES.—The  
15       Administrator (or the State in the case of a State  
16       that has a permit program approved under this sec-  
17      tion) shall post all notices received under this section  
18      in a searchable database accessible on the Internet.

19               “(6) SEWAGE BLENDING.—Bypasses prohibited  
20       by this section include bypasses resulting in dis-  
21       charges from a publicly owned treatment works that  
22       consist of effluent routed around treatment units  
23       and thereafter blended together with effluent from  
24      treatment units prior to discharge.

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

3           “(A) BYPASS.—The term ‘bypass’ means  
4       an intentional diversion of waste streams to by-  
5       pass any portion of a treatment facility.

6           “(B) TREATMENT FACILITY.—The term  
7       ‘treatment facility’ includes all wastewater  
8       treatment units used by a publicly-owned treat-  
9       ment works to meet secondary treatment stand-  
10       ards under any operating conditions.

11          “(C) TREATMENT WORKS.—The term  
12       ‘treatment works’ has the meaning given that  
13       term in section 212.

14          “(8) IMPLEMENTATION.—The Administrator  
15       shall establish procedures to ensure that permits  
16       issued under this section (or under a State permit  
17       program approved under this section) to a publicly  
18       owned treatment works include requirements to im-  
19       plement this subsection.”.

