

111TH CONGRESS  
1ST SESSION

# H. R. 53

To amend the Internal Revenue Code of 1986 to deny refinery expensing to owners of refineries that are permitted to increase the discharge of pollutants into the Great Lakes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. KIRK (for himself, Mr. ROSKAM, Mr. HINCHEY, and Mr. KUCINICH) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to deny refinery expensing to owners of refineries that are permitted to increase the discharge of pollutants 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 “Bad Polluters Act of  
5 2009”.

1 **SEC. 2. DENIAL OF REFINERY EXPENSING IN THE CASE OF**  
2 **PERMITS ALLOWING INCREASED POLLUTION**  
3 **INTO THE GREAT LAKES.**

4 (a) IN GENERAL.—Section 179C of the Internal Rev-  
5 enue Code of 1986 (relating to election to expense certain  
6 refineries) is amended by adding at the end the following  
7 new subsection:

8 “(i) DENIAL OF EXPENSING IN CASES OF IN-  
9 CREASED GREAT LAKES POLLUTION.—

10 “(1) IN GENERAL.—Subsection (a) shall not  
11 apply to any taxpayer for any taxable year if such  
12 taxpayer—

13 “(A) is a Great Lakes polluter for such  
14 taxable year, or

15 “(B) is related to any taxpayer who is a  
16 Great Lakes polluter for the taxable year of  
17 such polluter which ends in or with such taxable  
18 year of the taxpayer.

19 “(2) GREAT LAKES POLLUTER.—For purposes  
20 of this subsection, the term ‘Great Lakes polluter’  
21 means any person for any taxable year if such per-  
22 son owns, directly or indirectly, any portion of a re-  
23 finery which is covered by a National Pollutant Dis-  
24 charge Elimination System permit issued by the En-  
25 vironmental Protection Agency (or an equivalent  
26 permit issued by a State) which permits such refin-

1       ery, for any period which is part of such taxable  
2       year, to discharge any pollutant into the Great  
3       Lakes in a quantity which (when expressed as an  
4       annual limitation) exceeds the quantity (if any) of  
5       such pollutant which was permitted to be discharged  
6       into the Great Lakes from such refinery for calendar  
7       year 2006 under any National Pollutant Discharge  
8       Elimination System permit (or equivalent permit).

9               “(3) RELATED PERSONS.—For purposes of this  
10       subsection, a person shall be treated as related to  
11       another person if such persons are treated as a sin-  
12       gle employer under subsection (a) or (b) of section  
13       52 or subsection (m) or (o) of section 414.

14               “(4) SPECIAL RULE FOR NEW REFINERIES.—In  
15       the case of any refinery originally placed in service  
16       after December 31, 2005—

17                       “(A) paragraph (2) shall be applied by  
18                       substituting ‘the 1-year period beginning with  
19                       the date that such refinery was originally placed  
20                       in service’ for ‘calendar year 2006’, and

21                       “(B) such refinery shall not be taken into  
22                       account under this subsection with respect to  
23                       any taxable year beginning before the end of  
24                       such 1-year period.”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to taxable years ending after the  
3 date of the enactment of this Act.

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