

Union Calendar No. 55

106TH CONGRESS
1ST Session

H. R. 999

[Report No. 106-98]

A BILL

To amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

APRIL 19, 1999

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1999

Mr. BILBRAY (for himself, Mr. FARR of California, Mr. GILCHREST, Mrs. CAPPS, Mr. KUYKENDALL, and Mr. SAXTON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

APRIL 19, 1999

Additional sponsors: Mrs. KELLY, Mr. HORN, Mrs. JONES of Ohio, Mr. SHAW, and Mr. LoBIONDO

APRIL 19, 1999

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[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 4, 1999]

A BILL

To amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, 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 “Beaches Environmental*
 5 *Assessment, Cleanup, and Health Act of 1999”.*

6 **SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUAL-**
 7 **ITY CRITERIA AND STANDARDS BY STATES.**

8 *Section 303 of the Federal Water Pollution Control Act*
 9 *(33 U.S.C. 1313) is amended by adding at the end the fol-*
 10 *lowing:*

11 “(i) *COASTAL RECREATION WATER QUALITY CRITERIA*
 12 *AND STANDARDS.—*

13 “(1) *ADOPTION BY STATES.—*

14 “(A) *INITIAL CRITERIA AND STANDARDS.—*

15 *Not later than 3½ years after the date of enact-*
 16 *ment of this subsection, each State having coast-*
 17 *al recreation waters shall adopt and submit to*
 18 *the Administrator water quality criteria and*
 19 *standards for such waters for those pathogens*
 20 *and pathogen indicators for which the Adminis-*
 21 *trator has published criteria under section*
 22 *304(a).*

23 “(B) *NEW OR REVISED STANDARDS.—Not*
 24 *later than 3 years after the date of publication*
 25 *by the Administrator of new or revised water*

1 *quality criteria under section 304(a)(9), each*
2 *State having coastal recreation waters shall*
3 *adopt and submit to the Administrator new or*
4 *revised water quality standards for such waters*
5 *for all pathogens and pathogen indicators for*
6 *which the Administrator publishes new or re-*
7 *vised water quality criteria.*

8 *“(2) FAILURE OF STATES TO ADOPT.—If a State*
9 *has not complied with paragraph (1)(A) by the date*
10 *specified in paragraph (1)(A), the Administrator*
11 *shall promptly prepare and publish proposed regula-*
12 *tions for the State setting forth revised or new water*
13 *quality standards for coastal recreation waters for the*
14 *pathogens and pathogen indicators subject to para-*
15 *graph (1)(A). If the Administrator prepares and pub-*
16 *lishes such regulations under subsection (c)(4)(B) be-*
17 *fore the date specified in paragraph (1)(A), the Ad-*
18 *ministrator shall promulgate any revised or new*
19 *standard under this paragraph not later than the*
20 *date specified in paragraph (1)(A).*

21 *“(3) SAVINGS CLAUSE.—Except as expressly pro-*
22 *vided by this subsection, the requirements and proce-*
23 *dures of subsection (c) apply to this subsection.”.*

1 **SEC. 3. REVISIONS TO WATER QUALITY CRITERIA.**

2 (a) *STUDIES*.—Section 104 of the Federal Water Pol-
3 lution Control Act (33 U.S.C. 1254) is amended by adding
4 at the end the following:

5 “(v) *STUDIES CONCERNING PATHOGEN INDICATORS IN*
6 *COASTAL RECREATION WATERS*.—Not later than 3 years
7 after the date of enactment of this subsection, and after con-
8 sultation and collaboration with appropriate Federal,
9 State, and local officials (including local health officials)
10 and other interested persons, the Administrator shall con-
11 duct, in cooperation with the heads of other Federal agen-
12 cies, studies to provide additional information for use in
13 developing—

14 “(1) a more complete determination of potential
15 human health risks resulting from exposure to patho-
16 gens in coastal recreation waters, including effects to
17 the upper respiratory system;

18 “(2) appropriate and effective indicators for im-
19 proving detection in a timely manner in coastal
20 recreation waters of the presence of pathogens that are
21 harmful to human health;

22 “(3) appropriate, accurate, expeditious, and cost-
23 effective methods (including predictive models) for de-
24 tecting in a timely manner in coastal recreation wa-
25 ters the presence of pathogens that are harmful to
26 human health; and

1 “(4) guidance for State application of the cri-
2 teria for pathogens and pathogen indicators to be
3 issued under section 304(a)(9) to account for the di-
4 versity of geographic and aquatic conditions.”.

5 (b) *REVISED CRITERIA*.—Section 304(a) of such Act
6 (33 U.S.C. 1314(a)) is amended by adding at the end the
7 following:

8 “(9) *REVISED CRITERIA FOR COASTAL RECRE-*
9 *ATION WATERS*.—

10 “(A) *IN GENERAL*.—Not later than 4 years
11 after the date of enactment of this paragraph,
12 and after consultation and collaboration with
13 appropriate Federal, State, and local officials
14 (including local health officials), the Adminis-
15 trator shall issue new or revised water quality
16 criteria for pathogens and pathogen indicators
17 (including a revised list of testing methods, as
18 appropriate) based on the results of the studies
19 conducted under section 104(v) for the purpose of
20 protecting human health in coastal recreation
21 waters.

22 “(B) *REVIEWS*.—At least once every 5 years
23 after the date of issuance of water quality cri-
24 teria under this paragraph, the Administrator

1 *shall review and, as necessary, revise the water*
 2 *quality criteria.”.*

3 **SEC. 4. COASTAL RECREATION WATER QUALITY MONI-**
 4 **TORING AND NOTIFICATION.**

5 *Title IV of the Federal Water Pollution Control Act*
 6 *(33 U.S.C. 1341–1345) is amended by adding at the end*
 7 *the following:*

8 **“SEC. 406. COASTAL RECREATION WATER QUALITY MONI-**
 9 **TORING AND NOTIFICATION.**

10 “(a) *MONITORING AND NOTIFICATION.*—*Not later than*
 11 *18 months after the date of enactment of this section, after*
 12 *consultation and collaboration with appropriate Federal,*
 13 *State, and local officials (including local health officials),*
 14 *and after providing public notice and an opportunity for*
 15 *comment, the Administrator shall publish performance cri-*
 16 *teria for—*

17 “(1) *monitoring (including specifying available*
 18 *methods for monitoring) coastal recreation waters ad-*
 19 *jacent to beaches (or other points of access) that are*
 20 *open to the public for attainment of applicable water*
 21 *quality standards for pathogens and pathogen indica-*
 22 *tors and for protection of public safety from floatable*
 23 *materials; and*

24 “(2) *promptly notifying the public, local govern-*
 25 *ments, and the Administrator of any exceedance of*

1 *applicable water quality standards for coastal recre-*
 2 *ation waters described in paragraph (1) (or the im-*
 3 *mediate likelihood of such an exceedance).*

4 *The performance criteria shall provide for the activities de-*
 5 *scribed in paragraphs (1) and (2) to be carried out as nec-*
 6 *essary for the protection of public health and safety.*

7 *“(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION*
 8 *GRANTS.—*

9 *“(1) IN GENERAL.—The Administrator shall*
 10 *make grants to States and local governments for the*
 11 *purpose of developing and implementing programs for*
 12 *monitoring and notification, as provided in para-*
 13 *graphs (2) and (3).*

14 *“(2) STATE PROGRAMS.—*

15 *“(A) IN GENERAL.—The Administrator*
 16 *shall make grants to a State for developing and*
 17 *implementing a program for monitoring and no-*
 18 *tification to protect public health and safety that*
 19 *meets the performance criteria established under*
 20 *subsection (a) for coastal recreation waters adja-*
 21 *cent to beaches (or other points of access) that*
 22 *are open to the public and are subject to the ju-*
 23 *risdiction of the State.*

24 *“(B) REQUIREMENTS.—The Administrator*
 25 *shall make grants for implementation of a pro-*

1 *gram of a State under subparagraph (A) only if*
2 *the Administrator determines that—*

3 “(i) *the program has been developed*
4 *through a process that provides for public*
5 *notice and an opportunity for comment;*

6 “(ii) *the program meets the perform-*
7 *ance criteria under subsection (a), based on*
8 *a review of the program, including informa-*
9 *tion provided by the State under clause*
10 *(iii); and*

11 “(iii) *the program—*

12 “(I) *identifies coastal recreation*
13 *waters within the jurisdiction of the*
14 *State;*

15 “(II) *identifies those coastal recre-*
16 *ation waters adjacent to beaches (or*
17 *other points of access) that are open to*
18 *the public and subject to the jurisdic-*
19 *tion of the State and that are covered*
20 *by the program;*

21 “(III) *identifies those coastal*
22 *recreation waters covered by the pro-*
23 *gram that would be given a priority*
24 *for monitoring and notification if fis-*
25 *cal constraints prevent compliance at*

1 *all coastal recreation waters covered by*
2 *the program with the performance cri-*
3 *teria established under subsection (a);*

4 “(IV) *identifies the process for*
5 *making any delegation of responsi-*
6 *bility for implementing the program to*
7 *local governments, the local govern-*
8 *ments, if any, to which the State has*
9 *delegated or intends to delegate such*
10 *responsibility, and the coastal recre-*
11 *ation waters covered by the program*
12 *that are or would be the subject of such*
13 *delegation;*

14 “(V) *specifies the frequency of*
15 *monitoring based on the periods of rec-*
16 *reational use of such waters and the*
17 *nature and extent of use during such*
18 *periods;*

19 “(VI) *specifies the frequency and*
20 *location of monitoring based on the*
21 *proximity of such waters to known*
22 *point and nonpoint sources of pollu-*
23 *tion and in relation to storm events;*

24 “(VII) *specifies which methods*
25 *will be used for detecting levels of*

1 *pathogens and pathogen indicators*
2 *that are harmful to human health and*
3 *for identifying short-term increases in*
4 *pathogens and pathogen indicators*
5 *that are harmful to human health in*
6 *coastal recreation waters, including in*
7 *relation to storm events;*

8 “(VIII) *specifies measures for*
9 *prompt communication of the occur-*
10 *rence, nature, location, pollutants in-*
11 *volved, and extent of such an exceed-*
12 *ance (or the immediate likelihood of*
13 *such an exceedance) to the Adminis-*
14 *trator and a designated official of a*
15 *local government having jurisdiction*
16 *over land adjoining the coastal recre-*
17 *ation waters covered by the State pro-*
18 *gram for which an exceedance is iden-*
19 *tified; and*

20 “(IX) *specifies measures for post-*
21 *ing of signs at the beach (or other*
22 *point of access), or functionally equiva-*
23 *lent communication measures, suffi-*
24 *cient to give notice to the public of an*
25 *exceedance (or the immediate likelihood*

1 *of an exceedance) of applicable water*
2 *quality criteria for pathogens and*
3 *pathogen indicators for such waters*
4 *and the potential risks associated with*
5 *water contact activities in such waters.*

6 “(3) *LOCAL PROGRAMS.*—

7 “(A) *IN GENERAL.*—*The Administrator*
8 *shall make a grant to a local government for de-*
9 *veloping and implementing a program for moni-*
10 *toring and notification to protect public health*
11 *and safety that meets the performance criteria*
12 *established under subsection (a) for coastal recre-*
13 *ation waters adjacent to beaches (or other points*
14 *of access) that are open to the public and subject*
15 *to the jurisdiction of the local government.*

16 “(B) *REQUIREMENTS.*—*The Administrator*
17 *shall make grants for implementation of a local*
18 *government program under subparagraph (A)*
19 *only if the Administrator determines that—*

20 “(i) *the State in which the local gov-*
21 *ernment is located did not submit a grant*
22 *application meeting the requirements of*
23 *paragraph (2)(B) within one year following*
24 *the date of publication of performance cri-*
25 *teria under subsection (a);*

1 “(ii) the local government program has
2 been developed through a process that pro-
3 vides for public notice and an opportunity
4 for comment;

5 “(iii) the local government program
6 meets the performance criteria under sub-
7 section (a), based on a review of the local
8 government program, including information
9 provided by the local government under
10 paragraph (2)(B)(iii); and

11 “(iv) the local government program ad-
12 dresses the matters identified in paragraph
13 (2)(B)(iii) with respect to such waters.

14 “(4) LIST OF WATERS.—Following receipt of a
15 grant under this subsection, a State or local govern-
16 ment shall apply the prioritization established by the
17 State or local government under paragraph
18 (2)(B)(iii)(III) and promptly submit to the
19 Administrator—

20 “(A) a list of discrete areas of coastal recre-
21 ation waters that are subject to the program for
22 monitoring and notification for which the grant
23 is provided where the performance criteria under
24 subsection (a) will be met; and

1 “(B) a list of discrete areas of coastal recre-
2 ation waters that are subject to the program for
3 monitoring and notification for which the grant
4 is provided where fiscal constraints will prevent
5 compliance with the performance criteria under
6 subsection (a).

7 “(5) *FEDERAL SHARE.*—The Federal share of the
8 cost of developing and implementing a monitoring
9 and notification program under this subsection shall
10 be not less than 50 percent nor more than 100 per-
11 cent, as determined by the Administrator. The non-
12 Federal share of such cost may be met through in-
13 kind contributions.

14 “(6) *DELEGATION.*—If a State delegates respon-
15 sibility for monitoring and notification under this
16 subsection to a local government, the State shall make
17 a portion of any grant received by the State under
18 paragraph (2) available to the local government in an
19 amount commensurate with the responsibilities dele-
20 gated.

21 “(c) *INFORMATION DATABASE.*—The Administrator
22 shall establish, maintain, and make available to the public
23 by electronic and other means a national coastal recreation
24 water pollution occurrence database that provides informa-
25 tion on exceedances of applicable water quality standards

1 *for pathogens and pathogen indicators for coastal recreation*
2 *waters using information reported to the Administrator*
3 *pursuant to a monitoring and notification program that*
4 *meets the performance criteria established under subsection*
5 *(a). The Administrator may include in the database infor-*
6 *mation made available to the Administrator from other*
7 *coastal water quality monitoring programs determined to*
8 *be reliable by the Administrator. The database may provide*
9 *information through electronic links to other databases de-*
10 *termined to be reliable by the Administrator.*

11 “(d) *TECHNICAL ASSISTANCE.—The Administrator*
12 *shall provide technical assistance to States and local gov-*
13 *ernments for the development of assessment and monitoring*
14 *procedures for floatable materials to protect public health*
15 *and safety in coastal recreation waters.*

16 “(e) *LIST OF WATERS.—Beginning not later than 18*
17 *months after the date of publication of performance criteria*
18 *under subsection (a), the Administrator shall maintain a*
19 *list of discrete areas of coastal recreation waters adjacent*
20 *to beaches (or other points of access) that are open to the*
21 *public and are not subject to a program for monitoring and*
22 *notification meeting the performance criteria established*
23 *under subsection (a) based on information made available*
24 *to the Administrator. The list also shall identify discrete*
25 *areas of coastal recreation waters adjacent to beaches (or*

1 *other points of access) that are open to the public and are*
2 *subject to a monitoring and notification program meeting*
3 *the performance criteria established under subsection (a).*
4 *The Administrator shall make the list available to the pub-*
5 *lic through publication in the Federal Register and through*
6 *electronic media. The Administrator shall update the list*
7 *at least annually.*

8 “(f) *EPA IMPLEMENTATION.—After the last day of the*
9 *3-year period beginning on the date the Administrator*
10 *identifies a discrete area of coastal recreation waters adja-*
11 *cent to beaches (or other points of access) that are open to*
12 *the public and are not subject to a monitoring and notifica-*
13 *tion program meeting the performance criteria established*
14 *under subsection (a), the Administrator shall conduct such*
15 *a monitoring and notification program for the discrete area*
16 *using the funds appropriated for grants under subsection*
17 *(b), including salaries, expenses, and travel. The Adminis-*
18 *trator’s duties under this paragraph shall be limited to the*
19 *activities that can be performed using such funds.*

20 “(g) *AUTHORIZATION OF APPROPRIATIONS.—There is*
21 *authorized to be appropriated for making grants to States*
22 *and local governments under subsection (b), including im-*
23 *plementation of monitoring and notification programs by*
24 *the Administrator under subsection (f), \$30,000,000 for*
25 *each of fiscal years 2000 through 2004.”.*

1 **SEC. 5. DEFINITIONS.**

2 *Section 502 of the Federal Water Pollution Control Act*
3 *(33 U.S.C. 1362) is amended by adding at the end the fol-*
4 *lowing:*

5 “(21) *COASTAL RECREATION WATERS.*—*The term*
6 *‘coastal recreation waters’ means the Great Lakes and*
7 *marine coastal waters, including estuaries, used by*
8 *the public for swimming, bathing, surfing, or other*
9 *similar water contact activities.*

10 “(22) *FLOATABLE MATERIALS.*—*The term ‘float-*
11 *able materials’ means any foreign matter that may*
12 *float or remain suspended in the water column and*
13 *includes plastic, aluminum cans, wood products, bot-*
14 *tles, and paper products.*

15 “(23) *PATHOGEN INDICATORS.*—*The term ‘patho-*
16 *gen indicators’ means substances that indicate the po-*
17 *tential for human infectious disease.”.*

18 **SEC. 6. REPORT TO CONGRESS.**

19 (a) *IN GENERAL.*—*Not later than 4 years after the*
20 *date of enactment of this Act, and within the succeeding*
21 *4-year period and periodically thereafter, the Adminis-*
22 *trator of the Environmental Protection Agency shall trans-*
23 *mit to Congress a report including—*

24 (1) *recommendations concerning the need for ad-*
25 *ditional water quality criteria for pathogens and*

1 *other actions needed to improve the quality of coastal*
2 *recreation waters;*

3 *(2) an evaluation of Federal, State, and local ef-*
4 *forts to implement this Act, including the amend-*
5 *ments made by this Act; and*

6 *(3) recommendations on improvements to meth-*
7 *odologies and techniques for monitoring of coastal*
8 *recreation waters.*

9 *(b) COORDINATION.—The Administrator may coordi-*
10 *nate the report under this section with other reporting re-*
11 *quirements under the Federal Water Pollution Control Act.*

12 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

13 *There are authorized to be appropriated for carrying*
14 *out the provisions of this Act (including amendments made*
15 *by this Act) for which amounts are not otherwise specifi-*
16 *cally authorized to be appropriated such sums as may be*
17 *necessary for each of fiscal years 2000 through 2004.*