

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 522

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## AN ACT

To amend the Federal Water Pollution Control Act to improve the quality of beaches and coastal recreation water, 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 Environ-  
5        mental Assessment and Coastal Health Act of 2000”.

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

3 Section 303 of the Federal Water Pollution Control  
4 Act (33 U.S.C. 1313) is amended by adding at the end  
5 the following:

6 “(i) COASTAL RECREATION WATER QUALITY CRI-  
7 TERIA.—

8 “(1) ADOPTION BY STATES.—

9 “(A) INITIAL CRITERIA AND STAND-  
10 ARDS.—Not later than 42 months after the  
11 date of enactment of this subsection, each State  
12 having coastal recreation waters shall adopt and  
13 submit to the Administrator water quality cri-  
14 teria and standards for the coastal recreation  
15 waters of the State for those pathogens and  
16 pathogen indicators for which the Administrator  
17 has published criteria under section 304(a).

18 “(B) NEW OR REVISED CRITERIA AND  
19 STANDARDS.—Not later than 36 months after  
20 the date of publication by the Administrator of  
21 new or revised water quality criteria under sec-  
22 tion 304(a)(9), each State having coastal recre-  
23 ation waters shall adopt and submit to the Ad-  
24 ministrator new or revised water quality stand-  
25 ards for the coastal recreation waters of the  
26 State for all pathogens and pathogen indicators

1 to which the new or revised water quality cri-  
2 teria are applicable.

3 “(2) FAILURE OF STATES TO ADOPT.—

4 “(A) IN GENERAL.—If a State fails to  
5 adopt water quality criteria and standards in  
6 accordance with paragraph (1)(A) that are as  
7 protective of human health as the criteria for  
8 pathogens and pathogen indicators for coastal  
9 recreation waters published by the Adminis-  
10 trator, the Administrator shall promptly pro-  
11 pose regulations for the State setting forth re-  
12 vised or new water quality standards for patho-  
13 gens and pathogen indicators described in para-  
14 graph (1)(A) for coastal recreation waters of  
15 the State.

16 “(B) EXCEPTION.—If the Administrator  
17 proposes regulations for a State described in  
18 subparagraph (A) under subsection (c)(4)(B),  
19 the Administrator shall publish any revised or  
20 new standard under this subsection not later  
21 than 42 months after the date of enactment of  
22 this subsection.

23 “(3) APPLICABILITY.—Except as expressly pro-  
24 vided by this subsection, the requirements and pro-  
25 cedures of subsection (c) apply to this subsection, in-

1 including the requirement in subsection (c)(2)(A) that  
2 the criteria protect public health and welfare.”.

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

4 (a) STUDIES CONCERNING PATHOGEN INDICATORS  
5 IN COASTAL RECREATION WATERS.—Section 104 of the  
6 Federal Water Pollution Control Act (33 U.S.C. 1254) is  
7 amended by adding at the end the following:

8 “(v) STUDIES CONCERNING PATHOGEN INDICATORS  
9 IN COASTAL RECREATION WATERS.—Not later than 18  
10 months after the date of enactment of this subsection,  
11 after consultation and in cooperation with appropriate  
12 Federal, State, tribal, and local officials (including local  
13 health officials), the Administrator shall initiate, and, not  
14 later than 3 years after the date of enactment of this sub-  
15 section, shall complete, in cooperation with the heads of  
16 other Federal agencies, studies to provide additional infor-  
17 mation for use in developing—

18 “(1) an assessment of potential human health  
19 risks resulting from exposure to pathogens in coastal  
20 recreation waters, including nongastrointestinal ef-  
21 fects;

22 “(2) appropriate and effective indicators for im-  
23 proving detection in a timely manner in coastal  
24 recreation waters of the presence of pathogens that  
25 are harmful to human health;

1           “(3) appropriate, accurate, expeditious, and  
2           cost-effective methods (including predictive models)  
3           for detecting in a timely manner in coastal recre-  
4           ation waters the presence of pathogens that are  
5           harmful to human health; and

6           “(4) guidance for State application of the cri-  
7           teria for pathogens and pathogen indicators to be  
8           published under section 304(a)(9) to account for the  
9           diversity of geographic and aquatic conditions.”.

10          (b) REVISED CRITERIA.—Section 304(a) of the Fed-  
11          eral Water Pollution Control Act (33 U.S.C. 1314(a)) is  
12          amended by adding at the end the following:

13                 “(9) REVISED CRITERIA FOR COASTAL RECRE-  
14                 ATION WATERS.—

15                         “(A) IN GENERAL.—Not later than 5 years  
16                         after the date of enactment of this paragraph,  
17                         after consultation and in cooperation with ap-  
18                         propriate Federal, State, tribal, and local offi-  
19                         cials (including local health officials), the Ad-  
20                         ministrators shall publish new or revised water  
21                         quality criteria for pathogens and pathogen in-  
22                         dicators (including a revised list of testing  
23                         methods, as appropriate), based on the results  
24                         of the studies conducted under section 104(v),

1 for the purpose of protecting human health in  
2 coastal recreation waters.

3 “(B) **REVIEWS.**—Not later than the date  
4 that is 5 years after the date of publication of  
5 water quality criteria under this paragraph, and  
6 at least once every 5 years thereafter, the Ad-  
7 ministrator shall review and, as necessary, re-  
8 vise the water quality criteria.”.

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

11 Title IV of the Federal Water Pollution Control Act  
12 (33 U.S.C. 1341 et seq.) is amended by adding at the end  
13 the following:

14 **“SEC. 406. COASTAL RECREATION WATER QUALITY MONI-**  
15 **TORING AND NOTIFICATION.**

16 “(a) **MONITORING AND NOTIFICATION.**—

17 “(1) **IN GENERAL.**—Not later than 18 months  
18 after the date of enactment of this section, after  
19 consultation and in cooperation with appropriate  
20 Federal, State, tribal, and local officials (including  
21 local health officials), and after providing public no-  
22 tice and an opportunity for comment, the Adminis-  
23 trator shall publish performance criteria for—

24 “(A) monitoring and assessment (including  
25 specifying available methods for monitoring) of

1 coastal recreation waters adjacent to beaches or  
2 similar points of access that are used by the  
3 public for attainment of applicable water qual-  
4 ity standards for pathogens and pathogen indi-  
5 cators; and

6 “(B) the prompt notification of the public,  
7 local governments, and the Administrator of  
8 any exceeding of or likelihood of exceeding ap-  
9 plicable water quality standards for coastal  
10 recreation waters described in subparagraph  
11 (A).

12 “(2) LEVEL OF PROTECTION.—The perform-  
13 ance criteria referred to in paragraph (1) shall pro-  
14 vide that the activities described in subparagraphs  
15 (A) and (B) of that paragraph shall be carried out  
16 as necessary for the protection of public health and  
17 safety.

18 “(b) PROGRAM DEVELOPMENT AND IMPLEMENTA-  
19 TION GRANTS.—

20 “(1) IN GENERAL.—The Administrator may  
21 make grants to States and local governments to de-  
22 velop and implement programs for monitoring and  
23 notification for coastal recreation waters adjacent to  
24 beaches or similar points of access that are used by  
25 the public.

1           “(2) LIMITATIONS.—

2                   “(A) IN GENERAL.—The Administrator  
3           may award a grant to a State or a local govern-  
4           ment to implement a monitoring and notifica-  
5           tion program if—

6                           “(i) the program is consistent with  
7                           the performance criteria published by the  
8                           Administrator under subsection (a);

9                           “(ii) the State or local government  
10                          prioritizes the use of grant funds for par-  
11                          ticular coastal recreation waters based on  
12                          the use of the water and the risk to human  
13                          health presented by pathogens or pathogen  
14                          indicators;

15                          “(iii) the State or local government  
16                          makes available to the Administrator the  
17                          factors used to prioritize the use of funds  
18                          under clause (ii);

19                          “(iv) the State or local government  
20                          provides a list of discrete areas of coastal  
21                          recreation waters that are subject to the  
22                          program for monitoring and notification  
23                          for which the grant is provided that speci-  
24                          fies any coastal recreation waters for which  
25                          fiscal constraints will prevent consistency



1 with the performance criteria under sub-  
2 section (a); and

3 “(v) the public is provided an oppor-  
4 tunity to review the program through a  
5 process that provides for public notice and  
6 an opportunity for comment.

7 “(B) GRANTS TO LOCAL GOVERNMENTS.—  
8 The Administrator may make a grant to a local  
9 government under this subsection for implemen-  
10 tation of a monitoring and notification program  
11 only if, after the 1-year period beginning on the  
12 date of publication of performance criteria  
13 under subsection (a)(1), the Administrator de-  
14 termines that the State is not implementing a  
15 program that meets the requirements of this  
16 subsection, regardless of whether the State has  
17 received a grant under this subsection.

18 “(3) OTHER REQUIREMENTS.—

19 “(A) REPORT.—A State recipient of a  
20 grant under this subsection shall submit to the  
21 Administrator, in such format and at such in-  
22 tervals as the Administrator determines to be  
23 appropriate, a report that describes—

1           “(i) data collected as part of the pro-  
2           gram for monitoring and notification as  
3           described in subsection (c); and

4           “(ii) actions taken to notify the public  
5           when water quality standards are exceeded.

6           “(B) DELEGATION.—A State recipient of a  
7           grant under this subsection shall identify each  
8           local government to which the State has dele-  
9           gated or intends to delegate responsibility for  
10          implementing a monitoring and notification pro-  
11          gram consistent with the performance criteria  
12          published under subsection (a) (including any  
13          coastal recreation waters for which the author-  
14          ity to implement a monitoring and notification  
15          program would be subject to the delegation).

16          “(4) FEDERAL SHARE.—

17                 “(A) IN GENERAL.—The Administrator,  
18                 through grants awarded under this section, may  
19                 pay up to 100 percent of the costs of developing  
20                 and implementing a program for monitoring  
21                 and notification under this subsection.

22                 “(B) NON-FEDERAL SHARE.—The non-  
23                 Federal share of the costs of developing and im-  
24                 plementing a monitoring and notification pro-  
25                 gram may be—

1                   “(i) in an amount not to exceed 50  
2                   percent, as determined by the Adminis-  
3                   trator in consultation with State, tribal,  
4                   and local government representatives; and  
5                   “(ii) provided in cash or in kind.

6           “(c) CONTENT OF STATE AND LOCAL GOVERNMENT  
7 PROGRAMS.—As a condition of receipt of a grant under  
8 subsection (b), a State or local government program for  
9 monitoring and notification under this section shall  
10 identify—

11                   “(1) lists of coastal recreation waters in the  
12                   State, including coastal recreation waters adjacent  
13                   to beaches or similar points of access that are used  
14                   by the public;

15                   “(2) in the case of a State program for moni-  
16                   toring and notification, the process by which the  
17                   State may delegate to local governments responsi-  
18                   bility for implementing the monitoring and notifica-  
19                   tion program;

20                   “(3) the frequency and location of monitoring  
21                   and assessment of coastal recreation waters based  
22                   on—

23                                   “(A) the periods of recreational use of the  
24                   waters;

1           “(B) the nature and extent of use during  
2           certain periods;

3           “(C) the proximity of the waters to known  
4           point sources and nonpoint sources of pollution;  
5           and

6           “(D) any effect of storm events on the wa-  
7           ters;

8           “(4)(A) the methods to be used for detecting  
9           levels of pathogens and pathogen indicators that are  
10          harmful to human health; and

11          “(B) the assessment procedures for identifying  
12          short-term increases in pathogens and pathogen in-  
13          dicators that are harmful to human health in coastal  
14          recreation waters (including increases in relation to  
15          storm events);

16          “(5) measures for prompt communication of the  
17          occurrence, nature, location, pollutants involved, and  
18          extent of any exceeding of, or likelihood of exceed-  
19          ing, applicable water quality standards for pathogens  
20          and pathogen indicators to—

21                 “(A) the Administrator, in such form as  
22                 the Administrator determines to be appropriate;  
23                 and

24                 “(B) a designated official of a local govern-  
25                 ment having jurisdiction over land adjoining the

1 coastal recreation waters for which the failure  
2 to meet applicable standards is identified;

3 “(6) measures for the posting of signs at beach-  
4 es or similar points of access, or functionally equiva-  
5 lent communication measures that are sufficient to  
6 give notice to the public that the coastal recreation  
7 waters are not meeting or are not expected to meet  
8 applicable water quality standards for pathogens and  
9 pathogen indicators; and

10 “(7) measures that inform the public of the po-  
11 tential risks associated with water contact activities  
12 in the coastal recreation waters that do not meet ap-  
13 plicable water quality standards.

14 “(d) FEDERAL AGENCY PROGRAMS.—Not later than  
15 3 years after the date of enactment of this section, each  
16 Federal agency that has jurisdiction over coastal recre-  
17 ation waters adjacent to beaches or similar points of ac-  
18 cess that are used by the public shall develop and imple-  
19 ment, through a process that provides for public notice  
20 and an opportunity for comment, a monitoring and notifi-  
21 cation program for the coastal recreation waters that—

22 “(1) protects the public health and safety;

23 “(2) is consistent with the performance criteria  
24 published under subsection (a);

1           “(3) includes a completed report on the infor-  
2           mation specified in subsection (b)(3)(A), to be sub-  
3           mitted to the Administrator; and

4           “(4) addresses the matters specified in sub-  
5           section (c) .

6           “(e) DATABASE.—The Administrator shall establish,  
7           maintain, and make available to the public by electronic  
8           and other means a national coastal recreation water pollu-  
9           tion occurrence database that provides—

10           “(1) the data reported to the Administrator  
11           under subsections (b)(3)(A)(i) and (d)(3); and

12           “(2) other information concerning pathogens  
13           and pathogen indicators in coastal recreation waters  
14           that—

15           “(A) is made available to the Adminis-  
16           trator by a State or local government, from a  
17           coastal water quality monitoring program of the  
18           State or local government; and

19           “(B) the Administrator determines should  
20           be included.

21           “(f) TECHNICAL ASSISTANCE FOR MONITORING  
22           FLOATABLE MATERIAL.—The Administrator shall provide  
23           technical assistance to States and local governments for  
24           the development of assessment and monitoring procedures

1 for floatable material to protect public health and safety  
2 in coastal recreation waters.

3 “(g) LIST OF WATERS.—

4 “(1) IN GENERAL.—Beginning not later than  
5 18 months after the date of publication of perform-  
6 ance criteria under subsection (a), based on informa-  
7 tion made available to the Administrator, the Ad-  
8 ministrator shall identify, and maintain a list of, dis-  
9 crete coastal recreation waters adjacent to beaches  
10 or similar points of access that are used by the pub-  
11 lic that—

12 “(A) specifies any waters described in this  
13 paragraph that are subject to a monitoring and  
14 notification program consistent with the per-  
15 formance criteria established under subsection  
16 (a); and

17 “(B) specifies any waters described in this  
18 paragraph for which there is no monitoring and  
19 notification program (including waters for  
20 which fiscal constraints will prevent the State  
21 or the Administrator from performing moni-  
22 toring and notification consistent with the per-  
23 formance criteria established under subsection  
24 (a)).

1           “(2) AVAILABILITY.—The Administrator shall  
2           make the list described in paragraph (1) available to  
3           the public through—

4                   “(A) publication in the Federal Register;  
5           and

6                   “(B) electronic media.

7           “(3) UPDATES.—The Administrator shall up-  
8           date the list described in paragraph (1) periodically  
9           as new information becomes available.

10          “(h) EPA IMPLEMENTATION.—In the case of a State  
11          that has no program for monitoring and notification that  
12          is consistent with the performance criteria published  
13          under subsection (a) after the last day of the 3-year period  
14          beginning on the date on which the Administrator lists wa-  
15          ters in the State under subsection (g)(1)(B), the Adminis-  
16          trator shall conduct a monitoring and notification program  
17          for the listed waters based on a priority ranking estab-  
18          lished by the Administrator using funds appropriated for  
19          grants under subsection (i)—

20                   “(1) to conduct monitoring and notification;  
21          and

22                   “(2) for related salaries, expenses, and travel.

23          “(i) AUTHORIZATION OF APPROPRIATIONS.—There is  
24          authorized to be appropriated for making grants under  
25          subsection (b), including implementation of monitoring



1 and notification programs by the Administrator under  
2 subsection (h), \$30,000,000 for each of fiscal years 2001  
3 through 2005.”.

4 **SEC. 5. DEFINITIONS.**

5 Section 502 of the Federal Water Pollution Control  
6 Act (33 U.S.C. 1362) is amended by adding at the end  
7 the following:

8 “(21) COASTAL RECREATION WATERS.—

9 “(A) IN GENERAL.—The term ‘coastal  
10 recreation waters’ means—

11 “(i) the Great Lakes; and

12 “(ii) marine coastal waters (including  
13 coastal estuaries) that are designated  
14 under section 303(c) by a State for use for  
15 swimming, bathing, surfing, or similar  
16 water contact activities.

17 “(B) EXCLUSIONS.—The term ‘coastal  
18 recreation waters’ does not include—

19 “(i) inland waters; or

20 “(ii) waters upstream of the mouth of  
21 a river or stream having an unimpaired  
22 natural connection with the open sea.

23 “(22) FLOATABLE MATERIAL.—

1           “(A) IN GENERAL.—The term ‘floatable  
2 material’ means any foreign matter that may  
3 float or remain suspended in the water column.

4           “(B) INCLUSIONS.—The term ‘floatable  
5 material’ includes—

6                   “(i) plastic;

7                   “(ii) aluminum cans;

8                   “(iii) wood products;

9                   “(iv) bottles; and

10                  “(v) paper products.

11           “(23) PATHOGEN INDICATOR.—The term  
12 ‘pathogen indicator’ means a substance that indi-  
13 cates the potential for human infectious disease.”.

14 **SEC. 6. INDIAN TRIBES.**

15           Section 518(e) of the Federal Water Pollution Con-  
16 trol Act (33 U.S.C. 1377(e)) is amended by striking “and  
17 404” and inserting “404, and 406”.

18 **SEC. 7. REPORT.**

19           (a) IN GENERAL.—Not later than 4 years after the  
20 date of enactment of this Act, and every 4 years there-  
21 after, the Administrator of the Environmental Protection  
22 Agency shall submit to Congress a report that includes—

23                   (1) recommendations concerning the need for  
24 additional water quality criteria for pathogens and  
25 pathogen indicators and other actions that should be

1 taken to improve the quality of coastal recreation  
2 waters;

3 (2) an evaluation of Federal, State, and local  
4 efforts 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 of the Envi-  
10 ronmental Protection Agency may coordinate the report  
11 under this section with other reporting requirements  
12 under the Federal Water Pollution Control Act (33 U.S.C.  
13 1251 et seq.).

14 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to carry out  
16 the provisions of this Act, including the amendments made  
17 by this Act, for which amounts are not otherwise specifi-  
18 cally authorized to be appropriated, such sums as are nec-  
19 essary for each of fiscal years 2001 through 2005.

Passed the Senate September 21, 2000.

Attest:

*Secretary.*



106TH CONGRESS  
2D SESSION

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**AN ACT**

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