

Calendar No. 743106TH CONGRESS
2^D SESSION**S. 522****[Report No. 106-366]**

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

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1999

Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mrs. BOXER, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. DODD, Mr. KERRY, Mr. SARBANES, Mr. MOYNIHAN, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

AUGUST 25, 2000

Reported under authority of the order of the Senate of July 26, 2000, by Mr. SMITH of New Hampshire, with an amendment

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

A BILL

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Beaches Environ-
3 mental Assessment, Closure, and Health Act of 1999”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

6 (1) the beaches and coastal recreation water of
7 the United States are valuable public resources that
8 are used for recreation by millions of people annu-
9 ally;

10 (2) the beaches of coastal States host many
11 out-of-State and international visitors;

12 (3) tourism in coastal zones generates billions
13 of dollars annually;

14 (4) increased population and urbanization of
15 watershed areas have contributed to the decline in
16 the environmental quality of coastal water;

17 (5) pollution in coastal water is not restricted
18 by State or other political boundaries;

19 (6) coastal States have different methods of
20 testing and parameters for evaluating the quality of
21 coastal recreation water, resulting in the provision of
22 varying degrees of protection to the public;

23 (7) the adoption of consistent criteria by coastal
24 States would enhance public health and safety, in-
25 cluding the adoption of consistent criteria for—

1 (A) testing and evaluating the quality of
2 coastal recreation water; and

3 (B) the posting of signs at beaches noti-
4 fying the public during periods when the water
5 quality criteria for public safety are not met;
6 and

7 (8) while the adoption of consistent criteria
8 would enhance public health and safety, the failure
9 to meet consistent criteria should be addressed as
10 part of a watershed approach to effectively identify
11 and eliminate sources of pollution.

12 (b) **PURPOSES.**—The purpose of this Act is to amend
13 the Federal Water Pollution Control Act (~~33~~ U.S.C. 1251
14 et seq.) to require uniform criteria and procedures for
15 testing, monitoring, and notifying users of public coastal
16 recreation water and beaches—

17 (1) to protect public safety; and

18 (2) to improve environmental quality.

19 **SEC. 3. BEACH AND COASTAL RECREATION WATER QUAL-**
20 **ITY.**

21 The Federal Water Pollution Control Act (~~33~~ U.S.C.
22 1251 et seq.) is amended by adding at the end:

1 **“TITLE VII—BEACH AND COAST-**
 2 **AL RECREATION WATER**
 3 **QUALITY**

4 **“SEC. 701. DEFINITIONS.**

5 “In this title:

6 “(1) COASTAL RECREATION WATER.—The term
 7 ‘coastal recreation water’ means water adjacent to
 8 public beaches of the Great Lakes and of marine
 9 coastal water (including bays, lagoon mouths, and
 10 coastal estuaries within the tidal zone) used by the
 11 public for—

12 “(A) swimming;

13 “(B) bathing;

14 “(C) surfing; or

15 “(D) other similar body contact purposes.

16 “(2) FLOATABLE MATERIALS.—The term ‘float-
 17 able materials’ means any foreign matter that may
 18 float or remain suspended in water, including—

19 “(A) plastic;

20 “(B) aluminum cans;

21 “(C) wood;

22 “(D) bottles;

23 “(E) paper products; and

24 “(F) fishing gear.

1 **“SEC. 702. ADOPTION OF COASTAL RECREATIONAL WATER**
2 **QUALITY CRITERIA BY STATES.**

3 “(a) IN GENERAL.—Not later than 3 years and 180
4 days after the date of enactment of this title, each State
5 shall adopt water quality criteria for coastal recreation
6 water that, at a minimum, are consistent with the criteria
7 published by the Administrator under section 304(a)(1).

8 “(b) DEVELOPMENT OF CRITERIA.—Water quality
9 criteria described in subsection (a) shall—

10 “(1) be developed and promulgated in accord-
11 ance with section 303(e);

12 “(2) be incorporated into all appropriate pro-
13 grams into which a State would incorporate other
14 water quality criteria adopted under section 303(e);
15 and

16 “(3) not later than 3 years after the date of
17 publication of revisions by the Administrator under
18 section 703(b), be revised by the State.

19 “(c) FAILURE OF STATES TO ADOPT CRITERIA.—If,
20 not later than 3 years and 180 days after the date of en-
21 actment of this title, a State has not complied with sub-
22 section (a), the water quality criteria issued by the Admin-
23 istrator under section 304(a)(1) shall—

24 “(1) become the effective water quality criteria
25 for coastal recreational water for that State; and

1 “(2) be considered to have been promulgated by
2 the Administrator under section 303(e)(4).

3 **“SEC. 703. REVISIONS TO WATER QUALITY CRITERIA.**

4 “(a) STUDIES.—Not later than 3 years after the date
5 of enactment of this title, and after consultation with ap-
6 propriate Federal, State, and local officials (including local
7 health officials) and other interested persons, the Adminis-
8 trator shall conduct, in cooperation with the Under Sec-
9 retary of Commerce for Oceans and Atmosphere, studies
10 to provide new information for use in developing—

11 “(1) a more complete list of potential human
12 health risks from inhalation, ingestion, or body con-
13 tact with coastal recreation water, including effects
14 on the upper respiratory system;

15 “(2) appropriate and effective indicators for im-
16 proving direct detection of the presence of pathogens
17 found harmful to human health in coastal rec-
18 reational water;

19 “(3) appropriate, accurate, and expeditious
20 methods (including predictive models) for detecting
21 the presence of pathogens in coastal recreation water
22 that are harmful to human health; and

23 “(4) guidance for the State-to-State application
24 of the criteria issued under subsection (b) to account

1 for the diversity of geographic and aquatic condi-
 2 tions throughout the United States.

3 “(b) **REVISED CRITERIA.**—Not later than 5 years
 4 after the date of enactment of this title, based on the re-
 5 sults of the studies conducted under subsection (a), the
 6 Administrator, after consultation with appropriate Fed-
 7 eral, State, and local officials (including local health offi-
 8 cials) and other interested parties, shall—

9 “(1) issue revised water quality criteria for
 10 pathogens in coastal recreation water that are harm-
 11 ful to human health, including a revised list of indi-
 12 cators and testing methods; and

13 “(2) not less than once every 5 years thereafter,
 14 review and revise the water quality criteria.

15 **“SEC. 704. COASTAL BEACH WATER QUALITY MONITORING.**

16 “(a) **MONITORING.**—

17 “(1) **IN GENERAL.**—Not later than 1 year and
 18 180 days after the date of enactment of this title,
 19 the Administrator shall promulgate regulations re-
 20 quiring monitoring by the States of public coastal
 21 recreation water and beaches for—

22 “(A) compliance with applicable water
 23 quality criteria; and

24 “(B) maintenance of public safety.

1 “(2) CONTENTS OF REQUIREMENTS.—Moni-
2 toring requirements established under this section
3 shall specify, at a minimum—

4 “(A) available monitoring methods to be
5 used by States;

6 “(B) the frequency and location of moni-
7 toring based on—

8 “(i) the periods of recreational use of
9 coastal recreation water and beaches;

10 “(ii) the extent and degree of rec-
11 reational use during the periods described
12 in clause (i);

13 “(iii) the proximity of coastal recre-
14 ation water to known or identified point
15 and nonpoint sources of pollution; and

16 “(iv) the relationship between the use
17 of public recreation water and beaches to
18 storm events;

19 “(C) methods for—

20 “(i) detecting levels of pathogens that
21 are harmful to human health; and

22 “(ii) identifying short-term increases
23 in pathogens that are harmful to human
24 health in coastal recreation water, includ-

1 ing the relationship of short-term increases
2 in pathogens to storm events; and

3 “(D) conditions and procedures under
4 which discrete areas of coastal recreation water
5 may be exempted by the Administrator from
6 the monitoring requirements under this sub-
7 section; if the Administrator determines that an
8 exemption will not—

9 “(i) impair compliance with the appli-
10 cable water quality criteria for that water;
11 and

12 “(ii) compromise public safety.

13 “(b) NOTIFICATION REQUIREMENTS.—

14 “(1) IN GENERAL.—Regulations promulgated
15 under subsection (a) shall require States to provide
16 prompt notification of a failure or the likelihood of
17 a failure to meet applicable water quality criteria for
18 State coastal recreation water, to—

19 “(A) local governments;

20 “(B) the public; and

21 “(C) the Administrator.

22 “(2) INFORMATION INCLUDED IN NOTIFICA-
23 TION.—Notification under this subsection shall re-
24 quire, at a minimum—

1 “(A) the prompt communication of the oc-
 2 currence, nature, extent, and location of, and
 3 substances (including pathogens) involved in, a
 4 failure or immediate likelihood of a failure to
 5 meet water quality criteria, to a designated offi-
 6 cial of a local government having jurisdiction
 7 over land adjoining the coastal recreation water
 8 for which the failure or imminent failure to
 9 meet water quality criteria is identified; and

10 “(B) the posting of signs, during the pe-
 11 riod in which water quality criteria are not met
 12 continues, that are sufficient to give notice to
 13 the public—

14 “(i) of a failure to meet applicable
 15 water quality criteria for the water; and

16 “(ii) the potential risks associated
 17 with water contact activities in the water.

18 “(c) REVIEW AND REVISION OF REGULATIONS.—Pe-
 19 riodically, but not less than once every 5 years, the Admin-
 20 istrator shall review and make any necessary revisions to
 21 regulations promulgated under this section.

22 “(d) STATE IMPLEMENTATION.—

23 “(1) IN GENERAL.—Not later than 3 years and
 24 180 days after the date of enactment of this title,
 25 each State shall implement a monitoring and notifi-

1 eation program that conforms to the regulations pro-
 2 mulgated under subsections (a) and (b).

3 ~~“(2) REVISION OF PROGRAM.—Not later than 2~~
 4 ~~years after the date of publication of any revisions~~
 5 ~~by the Administrator under subsection (c), each~~
 6 ~~State shall revise the program established under~~
 7 ~~paragraph (1) to incorporate the revisions.~~

8 ~~“(e) GUIDANCE; DELEGATION OF RESPONSIBI-~~
 9 ~~BILITY.—~~

10 ~~“(1) IN GENERAL.—Not later than 1 year and~~
 11 ~~180 days after the date of enactment of this title,~~
 12 ~~the Administrator shall issue guidance~~
 13 ~~establishing—~~

14 ~~“(A) core performance measures for test-~~
 15 ~~ing; monitoring; and notification programs~~
 16 ~~under this section; and~~

17 ~~“(B) the delegation of testing; monitoring;~~
 18 ~~and notification programs under this section to~~
 19 ~~local government authorities.~~

20 ~~“(2) DELEGATION OF RESPONSIBILITY TO~~
 21 ~~LOCAL GOVERNMENTS.—If a responsibility described~~
 22 ~~in paragraph (1)(B) is delegated by a State to a~~
 23 ~~local government authority, or is delegated to a local~~
 24 ~~government authority before the date of enactment~~
 25 ~~of this section, State resources, including grants~~

1 made under section 706, shall be made available to
2 the delegated authority for the purpose of imple-
3 menting the delegated program in a manner that is
4 consistent with the guidance issued by the Adminis-
5 trator.

6 “(f) FLOATABLE MATERIALS MONITORING; TECH-
7 NICAL ASSISTANCE.—Not later than 1 year and 180 days
8 after the date of enactment of this title, the Administrator
9 shall—

10 “(1) provide technical assistance for uniform
11 assessment and monitoring procedures for floatable
12 materials in coastal recreation water; and

13 “(2) specify the conditions under which the
14 presence of floatable material shall constitute a
15 threat to public health and safety.

16 “(g) OCCURRENCE DATABASE.—The Administrator
17 shall establish, maintain, and make available to the public
18 by electronic and other means—

19 “(1) a national coastal recreation water pollu-
20 tion occurrence database using reliable information,
21 including the information reported under subsection
22 (b); and

23 “(2) a listing of communities conforming to the
24 regulations promulgated under subsections (a) and
25 (b).

1 **“SEC. 705. REPORT TO CONGRESS.**

2 “Not later than 4 years after the date of the enact-
3 ment of this title and periodically thereafter, the Adminis-
4 trator shall submit to Congress a report that contains—

5 “(1) recommendations concerning the need for
6 additional water quality criteria and other actions
7 that are necessary to improve the quality of coastal
8 recreation water; and

9 “(2) an evaluation of State efforts to implement
10 this title.

11 **“SEC. 706. GRANTS TO STATES.**

12 “(a) GRANTS.—The Administrator may make grants
13 to States for use in meeting the requirements of sections
14 702 and 704.

15 “(b) COST SHARING.—For each fiscal year, the total
16 amount of funds provided through grants to a State under
17 this section shall not exceed 50 percent of the cost to the
18 State of implementing requirements described in sub-
19 section (a).

20 “(c) ELIGIBLE STATE.—Effective beginning 3 years
21 and 180 days after the date of enactment of this title,
22 the Administrator may make a grant to a State under this
23 section only if the State demonstrates to the satisfaction
24 of the Administrator the implementation of the State mon-
25 itoring and notification program under section 704 of this
26 title.

1 **“SEC. 707. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated—

3 “(1) for use in making grants to States under
4 section 706, \$9,000,000 for each of fiscal years
5 2000 through 2004; and6 “(2) for carrying out the other provisions of
7 this title, \$3,000,000 for each of fiscal years 2000
8 through 2004.”.9 **SECTION 1. SHORT TITLE.**10 *This Act may be cited as the “Beaches Environmental*
11 *Assessment and Coastal Health Act of 2000”.*12 **SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUAL-**
13 **ITY CRITERIA AND STANDARDS BY STATES.**14 *Section 303 of the Federal Water Pollution Control Act*
15 *(33 U.S.C. 1313) is amended by adding at the end the fol-*
16 *lowing:*17 “(i) **COASTAL RECREATION WATER QUALITY CRI-**
18 **TERIA.—**19 “(1) **ADOPTION BY STATES.—**20 “(A) **INITIAL CRITERIA AND STANDARDS.—**21 *Not later than 42 months after the date of enact-*
22 *ment of this subsection, each State having coast-*
23 *al recreation waters shall adopt and submit to*
24 *the Administrator water quality criteria and*
25 *standards for the coastal recreation waters of the*
26 *State for those pathogens and pathogen indica-*

1 *tors for which the Administrator has published*
2 *criteria guidance under section 304(a).*

3 “(B) *NEW OR REVISED CRITERIA AND*
4 *STANDARDS.—Not later than 36 months after the*
5 *date of publication by the Administrator of new*
6 *or revised water quality criteria under section*
7 *304(a)(9), each State having coastal recreation*
8 *waters shall adopt and submit to the Adminis-*
9 *trator new or revised water quality standards for*
10 *the coastal recreation waters of the State for all*
11 *pathogens and pathogen indicators to which the*
12 *new or revised water quality criteria guidance is*
13 *applicable.*

14 “(2) *FAILURE OF STATES TO ADOPT.—*

15 “(A) *IN GENERAL.—If a State fails to adopt*
16 *water quality criteria and standards in accord-*
17 *ance with paragraph (1), the Administrator*
18 *shall promptly propose regulations described in*
19 *subparagraph (A) or (B) of that paragraph for*
20 *the State setting forth revised or new water qual-*
21 *ity standards for pathogens and pathogen indi-*
22 *cators for coastal recreation waters of the State.*

23 “(B) *EXCEPTION.—If the Administrator*
24 *proposes regulations described in subparagraph*
25 *(A) under section 303(c)(4)(B), the Adminis-*

1 *trator shall publish any revised or new standard*
 2 *under this section not later than 36 months after*
 3 *the date of publication of the new or revised*
 4 *water quality criteria under section 304(a)(9).*

5 *“(3) APPLICABILITY.—Except as expressly pro-*
 6 *vided by this subsection, the requirements and proce-*
 7 *dures of subsection (c) apply to this subsection, in-*
 8 *cluding the requirement in subsection (c)(2)(A) that*
 9 *the criteria protect public health and welfare.”.*

10 **SEC. 3. REVISIONS TO WATER QUALITY CRITERIA GUID-**
 11 **ANCE.**

12 *(a) STUDIES CONCERNING PATHOGEN INDICATORS IN*
 13 *COASTAL RECREATION WATERS.—Section 104 of the Fed-*
 14 *eral Water Pollution Control Act (33 U.S.C. 1254) is*
 15 *amended by adding at the end the following:*

16 *“(v) STUDIES CONCERNING PATHOGEN INDICATORS IN*
 17 *COASTAL RECREATION WATERS.—Not later than 18*
 18 *months after the date of enactment of this subsection, after*
 19 *consultation and in cooperation with appropriate Federal,*
 20 *State, tribal, and local officials (including local health offi-*
 21 *cials), the Administrator shall initiate, and, not later than*
 22 *3 years after the date of enactment of this subsection, shall*
 23 *complete, in cooperation with the heads of other Federal*
 24 *agencies, studies to provide additional information for use*
 25 *in developing—*

1 “(1) an assessment of potential human health
2 risks resulting from exposure to pathogens in coastal
3 recreation waters, including nongastrointestinal ef-
4 fects;

5 “(2) appropriate and effective indicators for im-
6 proving detection in a timely manner in coastal
7 recreation waters of the presence of pathogens that are
8 harmful to human health;

9 “(3) appropriate, accurate, expeditious, and cost-
10 effective methods (including predictive models) for de-
11 tecting in a timely manner in coastal recreation wa-
12 ters the presence of pathogens that are harmful to
13 human health; and

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

18 **(b) REVISED CRITERIA GUIDANCE.**—Section 304(a) of
19 the Federal Water Pollution Control Act (33 U.S.C.
20 1314(a)) is amended by adding at the end the following:

21 “(9) **REVISED CRITERIA GUIDANCE FOR COASTAL**
22 **RECREATION WATERS.**—

23 “(A) **IN GENERAL.**—Not later than 5 years
24 after the date of enactment of this paragraph,
25 after consultation and in cooperation with ap-

1 *propriate Federal, State, tribal, and local offi-*
 2 *cial*s (including local health officials), the Ad-
 3 *ministr*ator shall publish new or revised water
 4 *quality criteria guidance for pathogens and*
 5 *pathogen indicators (including a revised list of*
 6 *testing methods, as appropriate), based on the re-*
 7 *sults of the studies conducted under section*
 8 *104(v), for the purpose of protecting human*
 9 *health in coastal recreation waters.*

10 “(B) *REVIEWS.*—Not later than the date
 11 that is 5 years after the date of publication of
 12 water quality criteria guidance under this para-
 13 graph, and at least once every 5 years thereafter,
 14 the Administrator shall review and, as necessary,
 15 revise the water quality criteria guidance.”.

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

18 *Title IV of the Federal Water Pollution Control Act*
 19 *(33 U.S.C. 1341 et seq.) is amended by adding at the end*
 20 *the following:*

21 **“SEC. 406. COASTAL RECREATION WATER QUALITY MONI-**
 22 **TORING AND NOTIFICATION.**

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

24 “(1) *IN GENERAL.*—Not later than 18 months
 25 after the date of enactment of this section, after con-

1 *sultation and in cooperation with appropriate Fed-*
 2 *eral, State, tribal, and local officials (including local*
 3 *health officials), and after providing public notice*
 4 *and an opportunity for comment, the Administrator*
 5 *shall publish performance criteria that provide for—*

6 *“(A) monitoring and assessment (including*
 7 *specifying available methods for monitoring) of*
 8 *coastal recreation waters adjacent to beaches or*
 9 *other points of access that are used by the public*
 10 *for attainment of applicable water quality stand-*
 11 *ards for pathogens and pathogen indicators; and*

12 *“(B) the prompt notification of the public,*
 13 *local governments, and the Administrator of any*
 14 *exceeding of or likelihood of exceeding applicable*
 15 *water quality standards for coastal recreation*
 16 *waters described in subparagraph (A).*

17 *“(2) LEVEL OF PROTECTION.—The performance*
 18 *criteria referred to in paragraph (1) shall provide for*
 19 *the activities described in subparagraphs (A) and (B)*
 20 *of that paragraph to be carried out as necessary for*
 21 *the protection of public health and safety.*

22 *“(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION*
 23 *GRANTS.—*

24 *“(1) IN GENERAL.—The Administrator may*
 25 *make grants to States and local governments to de-*

1 *velop and implement programs for monitoring and*
2 *notification for coastal recreation waters adjacent to*
3 *beaches or other points of access that are used by the*
4 *public.*

5 *“(2) PRIORITIZATION.—States and local govern-*
6 *ments may prioritize the use of funds under para-*
7 *graph (1) based on the greatest risks to human health.*

8 *“(3) LIMITATIONS.—*

9 *“(A) IN GENERAL.—The Administrator*
10 *may award a grant to a State or a local govern-*
11 *ment to implement a monitoring and notifica-*
12 *tion program if—*

13 *“(i) the program is consistent with the*
14 *performance criteria published by the Ad-*
15 *ministrator under subsection (a); and*

16 *“(ii) the public is provided an oppor-*
17 *tunity to review the program through a*
18 *process that provides for public notice and*
19 *an opportunity for comment.*

20 *“(B) GRANTS TO LOCAL GOVERNMENTS.—*
21 *The Administrator is authorized to make grants*
22 *for implementation of a local government pro-*
23 *gram under subparagraph (A) only if the Ad-*
24 *ministrator determines that the State in which*
25 *the local government is located did not submit a*

1 *grant application for a program that meets the*
2 *requirements of subsection (c) during the 1-year*
3 *period beginning on the date of publication of*
4 *performance criteria under subsection (a).*

5 “(4) *OTHER REQUIREMENTS.—*

6 “(A) *LISTS OF WATERS.—On receipt of a*
7 *grant under this subsection, a State, tribe, or*
8 *local government shall—*

9 “(i) *apply the prioritization estab-*
10 *lished by the State, tribe, or local govern-*
11 *ment under paragraph (2); and*

12 “(ii) *promptly submit to the*
13 *Administrator—*

14 “(I) *a list of discrete areas of*
15 *coastal recreation waters that are sub-*
16 *ject to the program for monitoring and*
17 *notification for which the grant is pro-*
18 *vided; and*

19 “(II) *a list of discrete areas of*
20 *coastal recreation waters that are sub-*
21 *ject to the program for monitoring and*
22 *notification for which the grant is pro-*
23 *vided that specifies any coastal recre-*
24 *ation waters for which fiscal con-*
25 *straints will prevent compliance with*

1 *the performance criteria under sub-*
2 *section (a).*

3 “(B) *ADDITIONAL INFORMATION.*—*A State*
4 *recipient of a grant under this subsection shall*
5 *submit to the Administrator, in such format and*
6 *at such intervals as the Administrator deter-*
7 *mines to be appropriate, information collected as*
8 *part of the program for monitoring and notifica-*
9 *tion under this section.*

10 “(C) *DELEGATION.*—*A State recipient of a*
11 *grant under this subsection shall identify each*
12 *local government to which the State has dele-*
13 *gated or intends to delegate responsibility for im-*
14 *plementing a monitoring and notification pro-*
15 *gram consistent with the performance criteria*
16 *published under subsection (a) (including any*
17 *coastal recreation waters for which the authority*
18 *to implement a monitoring and notification pro-*
19 *gram would be subject to the delegation).*

20 “(5) *FEDERAL SHARE.*—

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

1 “(B) *NON-FEDERAL SHARE.*—*The non-Fed-*
2 *eral share of the costs of developing and imple-*
3 *menting a monitoring and notification program*
4 *may be—*

5 “(i) *in an amount not to exceed 50*
6 *percent, as determined by the Administrator*
7 *in consultation with State, tribal, and local*
8 *government representatives; and*

9 “(ii) *provided in cash or in kind.*

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

15 “(1) *lists of coastal recreation waters in the*
16 *State, including coastal recreation waters adjacent to*
17 *beaches or other points of access that are used by the*
18 *public;*

19 “(2) *in the case of a State program for moni-*
20 *toring and notification, the process by which the*
21 *State may delegate to local governments responsibility*
22 *for implementing the monitoring and notification*
23 *program;*

1 “(3) *the frequency and location of monitoring*
2 *and assessment of coastal recreation waters based*
3 *on—*

4 “(A) *the periods of recreational use of the*
5 *waters;*

6 “(B) *the nature and extent of use during*
7 *certain periods;*

8 “(C) *the proximity of the waters to known*
9 *point and nonpoint sources of pollution; and*

10 “(D) *any effect of storm events on the wa-*
11 *ters;*

12 “(4)(A) *the methods to be used for detecting levels*
13 *of pathogens and pathogen indicators that are harm-*
14 *ful to human health; and*

15 “(B) *the assessment procedures for identifying*
16 *short-term increases in pathogens and pathogen indi-*
17 *cators that are harmful to human health in coastal*
18 *recreation waters (including increases in relation to*
19 *storm events);*

20 “(5) *measures for prompt communication of the*
21 *occurrence, nature, location, pollutant source in-*
22 *volved, and extent of any exceeding of, or likelihood*
23 *of exceeding, applicable water quality standards for*
24 *pathogens and pathogen indicators to—*

25 “(A) *the Administrator; and*

1 “(B) a designated official of a local govern-
2 ment having jurisdiction over land adjoining the
3 coastal recreation waters for which the failure to
4 meet applicable standards is identified;

5 “(6) measures for the posting of signs at beaches
6 or other points of access, or functionally equivalent
7 communication measures that are sufficient to give
8 notice to the public that the coastal recreation waters
9 are not meeting or are not expected to meet applicable
10 water quality standards for pathogens and pathogen
11 indicators; and

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

16 “(d) *FEDERAL AGENCY PROGRAMS.*—Not later than
17 30 months after the date of enactment of this section, each
18 Federal agency that has jurisdiction over coastal recreation
19 waters adjacent to beaches or other points of access that are
20 used by the public shall develop and implement, through
21 a process that provides for public notice and an opportunity
22 for comment, a monitoring and notification program for
23 the coastal recreation waters that—

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

1 “(2) is consistent with the performance criteria
2 published under subsection (a).

3 “(e) *INFORMATION DATABASE.*—*The Administrator*
4 *shall establish, maintain, and make available to the public*
5 *by electronic and other means a national coastal recreation*
6 *water pollution occurrence database that provides—*

7 “(1) *the information reported to the Adminis-*
8 *trator under subsection (b)(4)(B); and*

9 “(2) *other information concerning pathogens and*
10 *pathogen indicators in coastal recreation waters*
11 *that—*

12 “(A) *is made available to the Administrator*
13 *by a State or local government, from a coastal*
14 *water quality monitoring program of the State*
15 *or local government; and*

16 “(B) *the Administrator determines should*
17 *be included.*

18 “(f) *TECHNICAL ASSISTANCE FOR MONITORING*
19 *FLOATABLE MATERIAL.*—*The Administrator shall provide*
20 *technical assistance to States and local governments for the*
21 *development of assessment and monitoring procedures for*
22 *floatable material to protect public health and safety in*
23 *coastal recreation waters.*

24 “(g) *LIST OF WATERS.*—

1 “(1) *IN GENERAL.*—*Beginning not later than 18*
2 *months after the date of publication of performance*
3 *criteria under subsection (a), based on information*
4 *made available to the Administrator, the Adminis-*
5 *trator shall maintain a list of discrete coastal recre-*
6 *ation waters adjacent to beaches or other points of ac-*
7 *cess that are used by the public that—*

8 “(A) *are subject to a monitoring and notifi-*
9 *cation program consistent with the performance*
10 *criteria established under subsection (a); and*

11 “(B) *specifies any waters described in this*
12 *paragraph for which there is no monitoring and*
13 *notification program (including waters for which*
14 *fiscal constraints will prevent the State from*
15 *performing monitoring and notification con-*
16 *sistent with the performance criteria established*
17 *under subsection (a)).*

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

21 “(A) *publication in the Federal Register;*

22 *and*

23 “(B) *electronic media.*

1 “(3) *UPDATES.*—*The Administrator shall update*
2 *the list described in paragraph (1) periodically as*
3 *new information becomes available.*

4 “(h) *EPA IMPLEMENTATION.*—

5 “(1) *IN GENERAL.*—*In the case of a State that*
6 *has no program for monitoring and notification that*
7 *is consistent with the performance criteria published*
8 *under subsection (a), the Administrator shall conduct*
9 *a monitoring and notification program for coastal*
10 *recreation waters in that State using the funds ap-*
11 *propriated for grants under subsection (i)—*

12 “(A) *to conduct monitoring and notifica-*
13 *tion; and*

14 “(B) *for related salaries, expenses, and*
15 *travel.*

16 “(2) *PRIORITIZATION.*—*In conducting a moni-*
17 *toring and notification program under paragraph*
18 *(1), the Administrator shall apply any prioritization*
19 *developed by the State under subsection (b)(2).*

20 “(i) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
21 *authorized to be appropriated for making grants under sub-*
22 *section (b), including implementation of monitoring and*
23 *notification programs by the Administrator under sub-*
24 *section (h), \$30,000,000 for each of fiscal years 2001*
25 *through 2005.”.*

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.*—

6 “(A) *IN GENERAL.*—*The term ‘coastal recre-*
 7 *ation waters’ means the Great Lakes and other*
 8 *marine coastal waters (including coastal estu-*
 9 *aries) that are used by the public for swimming,*
 10 *bathing, surfing, or other similar water contact*
 11 *activities.*

12 “(B) *EXCLUSION.*—*The term ‘coastal recre-*
 13 *ation waters’ does not include inland waters.*

14 “(22) *FLOATABLE MATERIAL.*—

15 “(A) *IN GENERAL.*—*The term ‘floatable ma-*
 16 *terial’ means any foreign matter that may float*
 17 *or remain suspended in the water column.*

18 “(B) *INCLUSIONS.*—*The term ‘floatable ma-*
 19 *terial’ includes—*

20 “(i) *plastic;*

21 “(ii) *aluminum cans;*

22 “(iii) *wood products;*

23 “(iv) *bottles; and*

24 “(v) *paper products.*

1 “(23) *PATHOGEN INDICATOR.*—*The term ‘patho-*
2 *gen indicator’ means a substance that indicates the*
3 *potential for human infectious disease.’.*”

4 **SEC. 6. INDIAN TRIBES.**

5 *Section 518(e) of the Federal Water Pollution Control*
6 *Act (33 U.S.C. 1377(e)) is amended by striking “and 404”*
7 *and inserting “404, and 406”.*

8 **SEC. 7. REPORT.**

9 *(a) IN GENERAL.*—*Not later than 4 years after the*
10 *date of enactment of this Act, and every 4 years thereafter,*
11 *the Administrator of the Environmental Protection Agency*
12 *shall submit to Congress a report that includes—*

13 *(1) recommendations concerning the need for ad-*
14 *ditional water quality criteria guidance for pathogens*
15 *and pathogen indicators and other actions that should*
16 *be taken to improve the quality of coastal recreation*
17 *waters;*

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

21 *(3) recommendations on improvements to meth-*
22 *odologies and techniques for monitoring of coastal*
23 *recreation waters.*

24 *(b) COORDINATION.*—*The Administrator of the Envi-*
25 *ronmental Protection Agency may coordinate the report*

1 *under this section with other reporting requirements under*
2 *the Federal Water Pollution Control Act (33 U.S.C. 1251*
3 *et seq.).*

4 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) *IN GENERAL.*—*There are authorized to be appro-*
6 *priated to carry out the provisions of this Act, including*
7 *the amendments made by this Act, for which amounts are*
8 *not otherwise specifically authorized to be appropriated,*
9 *such sums as are necessary for each of fiscal years 2001*
10 *through 2005.*

11 (b) *BUDGET REQUEST.*—*The Administrator of the En-*
12 *vironmental Protection Agency shall request that Congress*
13 *appropriate funds to carry out this Act.*

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106TH CONGRESS
2D SESSION

S. 522

[Report No. 106-366]

A BILL

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

AUGUST 25, 2000

Reported with an amendment