

BEACHES ENVIRONMENTAL ASSESSMENT, CLEANUP, AND  
HEALTH ACT OF 1999

APRIL 19, 1999.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and  
Infrastructure, submitted the following

REPORT

[To accompany H.R. 999]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 999) to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Beaches Environmental Assessment, Cleanup, and Health Act of 1999”.

**SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS BY STATES.**

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

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

“(1) ADOPTION BY STATES.—

“(A) INITIAL CRITERIA AND STANDARDS.—Not later than 3½ years after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for such waters for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

“(B) NEW OR REVISED STANDARDS.—Not later than 3 years after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for such waters for all pathogens and pathogen indicators for which the Administrator publishes new or revised water quality criteria.

“(2) FAILURE OF STATES TO ADOPT.—If a State has not complied with paragraph (1)(A) by the date specified in paragraph (1)(A), the Administrator shall promptly prepare and publish proposed regulations for the State setting forth revised or new water quality standards for coastal recreation waters for the pathogens and pathogen indicators subject to paragraph (1)(A). If the Administrator prepares and publishes such regulations under subsection (c)(4)(B) before the date specified in paragraph (1)(A), the Administrator shall promulgate any revised or new standard under this paragraph not later than the date specified in paragraph (1)(A).

“(3) SAVINGS CLAUSE.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection.”.

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

(a) STUDIES.—Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by adding at the end the following:

“(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 3 years after the date of enactment of this subsection, and after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials) and other interested persons, the Administrator shall conduct, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

“(1) a more complete determination of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including effects to the upper respiratory system;

“(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

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

“(4) guidance for State application of the criteria for pathogens and pathogen indicators to be issued under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.”.

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

“(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

“(A) IN GENERAL.—Not later than 4 years after the date of enactment of this paragraph, and after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials), the Administrator shall issue new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate) based on the results of the studies conducted under section 104(v) for the purpose of protecting human health in coastal recreation waters.

“(B) REVIEWS.—At least once every 5 years after the date of issuance of water quality criteria under this paragraph, the Administrator shall review and, as necessary, revise the water quality criteria.”.

**SEC. 4. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.**

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

**“SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.**

“(a) MONITORING AND NOTIFICATION.—Not later than 18 months after the date of enactment of this section, after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

“(1) monitoring (including specifying available methods for monitoring) coastal recreation waters adjacent to beaches (or other points of access) that are open to the public for attainment of applicable water quality standards for pathogens and pathogen indicators and for protection of public safety from floatable materials; and

“(2) promptly notifying the public, local governments, and the Administrator of any exceedance of applicable water quality standards for coastal recreation waters described in paragraph (1) (or the immediate likelihood of such an exceedance).

The performance criteria shall provide for the activities described in paragraphs (1) and (2) to be carried out as necessary for the protection of public health and safety.

“(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

“(1) IN GENERAL.—The Administrator shall make grants to States and local governments for the purpose of developing and implementing programs for monitoring and notification, as provided in paragraphs (2) and (3).

“(2) STATE PROGRAMS.—

“(A) IN GENERAL.—The Administrator shall make grants to a State for developing and implementing a program for monitoring and notification to protect public health and safety that meets the performance criteria established under subsection (a) for coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are subject to the jurisdiction of the State.

“(B) REQUIREMENTS.—The Administrator shall make grants for implementation of a program of a State under subparagraph (A) only if the Administrator determines that—

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

“(ii) the program meets the performance criteria under subsection (a), based on a review of the program, including information provided by the State under clause (iii); and

“(iii) the program—

“(I) identifies coastal recreation waters within the jurisdiction of the State;

“(II) identifies those coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and subject to the jurisdiction of the State and that are covered by the program;

“(III) identifies those coastal recreation waters covered by the program that would be given a priority for monitoring and notification if fiscal constraints prevent compliance at all coastal recreation waters covered by the program with the performance criteria established under subsection (a);

“(IV) identifies the process for making any delegation of responsibility for implementing the program to local governments, the local governments, if any, to which the State has delegated or intends to delegate such responsibility, and the coastal recreation waters covered by the program that are or would be the subject of such delegation;

“(V) specifies the frequency of monitoring based on the periods of recreational use of such waters and the nature and extent of use during such periods;

“(VI) specifies the frequency and location of monitoring based on the proximity of such waters to known point and nonpoint sources of pollution and in relation to storm events;

“(VII) specifies which methods will be used for detecting levels of pathogens and pathogen indicators that are harmful to human health and for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters, including in relation to storm events;

“(VIII) specifies measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of such an exceedance (or the immediate likelihood of such an exceedance) to the Administrator and a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters covered by the State program for which an exceedance is identified; and

“(IX) specifies measures for posting of signs at the beach (or other point of access), or functionally equivalent communication measures, sufficient to give notice to the public of an exceedance (or the immediate likelihood of an exceedance) of applicable water quality criteria for pathogens and pathogen indicators for such waters and the potential risks associated with water contact activities in such waters.

“(3) LOCAL PROGRAMS.—

“(A) IN GENERAL.—The Administrator shall make a grant to a local government for developing and implementing a program for monitoring and notification to protect public health and safety that meets the performance criteria established under subsection (a) for coastal recreation waters adjacent

to beaches (or other points of access) that are open to the public and subject to the jurisdiction of the local government.

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

“(i) the State in which the local government is located did not submit a grant application meeting the requirements of paragraph (2)(B) within one year following the date of publication of performance criteria under subsection (a);

“(ii) the local government program has been developed through a process that provides for public notice and an opportunity for comment;

“(iii) the local government program meets the performance criteria under subsection (a), based on a review of the local government program, including information provided by the local government under paragraph (2)(B)(iii); and

“(iv) the local government program addresses the matters identified in paragraph (2)(B)(iii) with respect to such waters.

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

“(A) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided where the performance criteria under subsection (a) will be met; and

“(B) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided where fiscal constraints will prevent compliance with the performance criteria under subsection (a).

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

“(6) DELEGATION.—If a State delegates responsibility for monitoring and notification under this subsection to a local government, the State shall make a portion of any grant received by the State under paragraph (2) available to the local government in an amount commensurate with the responsibilities delegated.

“(c) INFORMATION DATABASE.—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides information on exceedances of applicable water quality standards for pathogens and pathogen indicators for coastal recreation waters using information reported to the Administrator pursuant to a monitoring and notification program that meets the performance criteria established under subsection (a). The Administrator may include in the database information made available to the Administrator from other coastal water quality monitoring programs determined to be reliable by the Administrator. The database may provide information through electronic links to other databases determined to be reliable by the Administrator.

“(d) TECHNICAL ASSISTANCE.—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable materials to protect public health and safety in coastal recreation waters.

“(e) LIST OF WATERS.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), the Administrator shall maintain a list of discrete areas of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are not subject to a program for monitoring and notification meeting the performance criteria established under subsection (a) based on information made available to the Administrator. The list also shall identify discrete areas of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are subject to a monitoring and notification program meeting the performance criteria established under subsection (a). The Administrator shall make the list available to the public through publication in the Federal Register and through electronic media. The Administrator shall update the list at least annually.

“(f) EPA IMPLEMENTATION.—After the last day of the 3-year period beginning on the date the Administrator identifies a discrete area of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are not

subject to a monitoring and notification program meeting the performance criteria established under subsection (a), the Administrator shall conduct such a monitoring and notification program for the discrete area using the funds appropriated for grants under subsection (b), including salaries, expenses, and travel. The Administrator's duties under this paragraph shall be limited to the activities that can be performed using such funds.

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

#### SEC. 5. DEFINITIONS.

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

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

“(22) FLOATABLE MATERIALS.—The term ‘floatable materials’ means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood products, bottles, and paper products.

“(23) PATHOGEN INDICATORS.—The term ‘pathogen indicators’ means substances that indicate the potential for human infectious disease.”.

#### SEC. 6. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and within the succeeding 4-year period and periodically thereafter, the Administrator of the Environmental Protection Agency shall transmit to Congress a report including—

- (1) recommendations concerning the need for additional water quality criteria for pathogens and other actions needed to improve the quality of coastal recreation waters;
- (2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and
- (3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) COORDINATION.—The Administrator may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act.

#### SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for carrying out the provisions of this Act (including amendments made by this Act) for which amounts are not otherwise specifically authorized to be appropriated such sums as may be necessary for each of fiscal years 2000 through 2004.

### SUMMARY AND PURPOSE

H.R. 999, the “Beaches Environmental Assessment, Cleanup, and Health Act of 1999,” provides for States to update their water quality standards to incorporate criteria for protecting human health from pathogens in coastal recreation waters. The bill also sets up a grant program to provide funding for States to develop and implement programs for monitoring for and notification to the public of exceedances of water quality standards for pathogens in coastal recreation waters.

### BACKGROUND AND NEED FOR LEGISLATION

Each year over 180 million people visit our nation's coastal waters for recreational purposes. This activity supports over 28 million jobs and leads to investments of over \$50 billion in goods and services. It is important to give the public confidence in the quality of our nation's coastal waters. This confidence is important not only to each citizen who swims or surfs, but also to the tourism and

recreation industries that rely on safe and swimmable coastal waters.

Currently, there are several problems or potential problems with ensuring the safety of our coastal recreation waters. Only 16 States have adopted the Environmental Protection Agency's (EPA's) 1986 criteria for pathogens in coastal recreation waters, and have incorporated these into their water quality standards. Other States may be using outdated criteria. EPA's 1986 criteria need to be updated to improve the scientific basis for identifying pathogens in coastal recreation waters. Not all States monitor their coastal recreation waters to ensure compliance with water quality standards for pathogens. In addition, although EPA has established a public, electronic database of beach water quality, there is not currently available a comprehensive source of information about the quality of all our coastal recreation waters.

#### WATER QUALITY CRITERIA AND STANDARDS

Under current section 304(a) of the Clean Water Act, EPA has the responsibility to establish water quality criteria for all waters and uses, including human health criteria for recreational uses of coastal waters. Federal water quality criteria serve as guidance to States and Tribes in adopting and revising State and Tribal water quality criteria and water quality standards under section 303 of the Clean Water Act. Under current Clean Water Act regulations, States and Tribes may adopt the Federal criteria as their own, may modify the Federal criteria to reflect site-specific conditions, or may base their water quality criteria on other scientifically defensible methods. 40 C.F.R. 131.11(b)(1). If EPA determines that a State's or Tribe's water quality standards are not consistent with the applicable requirements of the Clean Water Act, EPA has the authority to promulgate Federal standards for that State or Tribe.

In 1986, EPA revised its human health water quality criteria for bacteria in recreational waters. Not all States and Tribes with Clean Water Act authority have adopted these revised criteria. Moreover, the 1986 revised bacteria criteria are inadequate indicators for determining the human health risk from all microorganisms, including viruses or other pathogens such as giardia or cryptosporidium. In an Advanced Notice of Proposed Rulemaking dated July 7, 1998, EPA stated that it is currently evaluating how it may develop human health criteria for protection from these microorganisms. To do so, EPA is considering conducting additional research and is seeking public comment on these issues.

#### WATER QUALITY MONITORING

Coastal water quality monitoring is currently conducted by the National Oceanic and Atmospheric Administration (NOAA), EPA, and the United States Geological Survey (USGS) and various state and local organizations. This monitoring is not uniform. For example, New Jersey, with its history of beach closings, conducts extensive monitoring of all of its coastal beaches. Some States do not conduct extensive monitoring.

## PUBLIC INFORMATION ON COASTAL WATER QUALITY

Currently, EPA, through its BEACH program, has an Internet web site that provides beach water quality information. However, this information is provided to EPA on a voluntary basis by State and local governments and is limited. EPA does not have a comprehensive picture of the status of coastal recreation waters.

## CONCLUSION

The bill addresses the problem of inconsistent State water quality standards by requiring States to incorporate water quality criteria for pathogens in coastal recreation waters into their water quality standards within 3½ years so that the State standards are consistent with the requirements of the Clean Water Act. This has been interpreted to mean that State water quality criteria must be at least as protective of human health as EPA's water quality criteria. EPA must promulgate water quality standards for the State if the State fails to meet this deadline.

The bill addresses the problem of outdated water quality criteria by requiring EPA to conduct research and to issue updated criteria for pathogens within 4 years. States are then given an additional 3 years to incorporate these updated criteria into State water quality standards.

The bill addresses the problem of the lack of coastal water quality monitoring, or inadequate monitoring, in some coastal areas, by setting up a program to provide States and local governments with grants to develop and implement programs to monitor for pathogens in coastal recreation waters and to notify the public, local government officials, and EPA, of exceedances of water quality criteria for pathogens. Only programs that meet the performance criteria, which are to be developed by EPA through a public process that includes consultation and collaboration with State and local officials, are eligible for Federal grants.

Finally, the bill addresses the lack of information on beach water quality by requiring States and local governments that receive grants to report information on beach water quality to the Administrator, and by requiring EPA to make that information publicly available. The bill also requires EPA to maintain lists of coastal recreation waters where monitoring is necessary to protect public health and safety, and to identify discrete areas that are and are not covered by a monitoring and notification program that meets the national performance criteria.

## DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

Provides that the Act may be cited as the "Beaches Environmental Assessment, Cleanup, and Health Act of 1999."

*Section 2. Adoption of coastal recreation water quality criteria and standards by states*

Amends section 303 of the Clean Water Act to add a new subsection (i) to require States to adopt coastal recreation water qual-

ity criteria published by EPA to protect human health from pathogens and incorporate these criteria into State standards in accordance with the requirements of section 303(c) (of current law) within 3½ years of the date of enactment. If a State fails to act, this provision requires EPA to promulgate standards for the State that incorporate these criteria. This section also provides a 3-year deadline for States to incorporate any new or revised criteria for pathogens and pathogen indicators in coastal recreation waters into their State water quality standards.

The Committee intends that the legal standard for determining when a State water quality standard is consistent with the applicable requirements of the Clean Water Act be governed by the existing requirements of section 303(c) of the Clean Water Act, and the regulations implementing that section. This standard has been interpreted to mean that State water quality criteria must be at least as protective of human health as EPA's water quality criteria. Thus, a State must incorporate into its water quality standards water quality criteria for pathogens and pathogen indicators that are at least as protective as criteria EPA has published under section 304(a), including EPA's 1986 criteria for enterococcus and *Escherichia coli*.

### *Section 3. Revisions to water quality criteria*

Amends section 104 of the Clean Water Act to add a new subsection (v) to require EPA to conduct studies to improve the scientific basis for water quality criteria for pathogens and pathogen indicators and to provide guidance to States on the application of criteria for pathogens and pathogen indicators to account for the diversity of geographic and aquatic conditions.

Amends section 304(a) of the Clean Water Act to require EPA to issue new and revised water quality criteria for pathogens and pathogen indicators within 4 years of enactment.

### *Section 4. Coastal recreation water quality monitoring and notification*

Amends title IV of the Clean Water Act to add a new section 406, as follows:

(a) MONITORING AND NOTIFICATION.—Requires EPA, within 18 months of enactment, to publish performance criteria for monitoring coastal recreation waters and notifying the public, local governments, and the Administrator of exceedances (or the immediate likelihood of an exceedance) of applicable water quality standards for such waters, as necessary for the protection of public health and safety. EPA is required to develop these performance criteria through a public process that includes consultation and collaboration with appropriate Federal, State and local officials. The purpose of the performance criteria is to provide for a monitoring and notification program where necessary for the protection of public health and safety. The Committee expects EPA to include criteria for determining what discrete areas of coastal recreation waters do not need to be monitored to protect public health and safety. The Committee recognizes that monitoring will not be the same for all coastal recreation waters. For example, monitoring will be different in Maine than it is in Florida. The Committee expects the perform-



ance criteria published under section 406(a) to lead to uniform levels of protection, not uniform monitoring programs.

(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—Requires EPA to make grants to States and local governments for the purpose of developing and implementing programs for monitoring and notification that meet the performance criteria established under subsection (a) for coastal recreation waters adjacent to beaches that are open to the public and subject to the jurisdiction of the governmental entity seeking the grant. To be eligible for a Federal implementation grant, the monitoring and notification program submitted to EPA must provide specific information listing coastal recreation waters of a State or locality, the coastal recreation waters covered by the program, priorities for monitoring, any contemplated delegation to local governments, frequency of monitoring, location of monitoring, test methods, and measures for communicating to the public, the local government, and the Administrator to give notice of an exceedance of water quality standards (or immediate likelihood of an exceedance). If a State does not submit a program that meets the EPA performance criteria, a local government may develop and receive grants for a local program that meets such criteria. EPA is authorized to require a cost share of up to 50%. The Administrator may exercise discretion in establishing any cost share requirements. For example, it may be appropriate in certain instances, such as the early stages of program development and implementation, for EPA to provide 100% of program costs. The Committee intends EPA to allocate funds appropriated for these grants among coastal recreation waters adjacent to publicly owned beaches (or other access points) based on needs and the costs of monitoring these areas.

(c) INFORMATION DATABASE.—Requires EPA to establish and maintain a publicly available database of exceedances of water quality standards for coastal recreation waters. The Committee intends EPA to make this database readily accessible, including posting on the Internet.

(d) TECHNICAL ASSISTANCE.—Requires EPA to provide technical assistance to States and local governments regarding assessment and monitoring procedures for floatable materials in coastal recreation waters.

(e) LIST OF WATERS.—Requires EPA to maintain a publicly available list of discrete areas of coastal recreation waters that should be, but are not covered by a monitoring and notification program that meets the EPA performance criteria. The Committee intends EPA to include on this list those areas for which EPA cannot confirm the existence of a monitoring and notification program that meets the performance criteria, except for those areas where EPA has determined that monitoring is not necessary to protect public health and safety. EPA also is required to maintain a publicly available list of discrete areas that are covered by a monitoring and notification program that meets the performance criteria. In developing these lists, the Committee intends EPA to use reliable information provided by States, local governments, other Federal agencies, or any other person, as well as any information developed by EPA itself. EPA is required to publish such lists in the Federal

Register and through electronic media. The Committee intends that EPA post these lists on the Internet.

(f) EPA IMPLEMENTATION.—Requires EPA to implement a program for monitoring and notification that meets the performance criteria for discrete areas of coastal waters that should be covered by such a program, but for which no such program is being implemented by a State or local government. In identifying such discrete areas, EPA is to use reliable information provided by States, local governments, other Federal agencies, or any other person, as well as any information developed by EPA itself. Where EPA is implementing the program, the Committee intends EPA to use those funds that it had allocated for such discrete areas. EPA's duty to implement a program is limited to activities that can be performed using such funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—Authorizes \$30,000,000 each year for fiscal years 2000 through 2004 for grants to States, tribes and local governments to implement monitoring and notification programs, or EPA implementation if a State, tribe, or local government fails to act.

#### *Section 5. Definitions*

Amends section 502 of the Clean Water Act to add definitions for “coastal recreation waters,” “floatable materials,” and “pathogen indicators.” The term “coastal recreation waters” includes only waters that are adjacent to the coastline of the United States. It does not include any inland waters and does not extend beyond the mouth of any river or stream having unimpaired natural connection with open sea.

#### *Section 6. Report to Congress*

Requires EPA to report to Congress on the implementation of this Act, recommendations for additional water quality criteria for pathogens, and recommendations for improvements in monitoring. Such reporting is required within 4 years of enactment, within 4 years thereafter, and periodically thereafter.

#### *Section 7. Authorization of appropriations*

Authorizes such sums as may be necessary for EPA to carry out the provisions of this Act, other than the grant program authorized in new section 406 of the Clean Water Act.

### HEARINGS

On August 6, 1998, the Water Resources and Environment Subcommittee held a hearing on “Beaches and Oceans Legislation.” Testimony was given by, among others, Representative Bilbray (CA), Representative Pallone (NJ), Representative Saxton (NJ), and Representative Farr (CA); Mr. J. Charles Fox, Environmental Protection Agency; Ms. Sally Yozell, National Oceanic and Atmospheric Administration, as well as representatives of State and local agencies, and the environmental community.

## COMMITTEE CONSIDERATION

On April 15, 1999, the Subcommittee on Water Resources and Environment adopted an amendment in the nature of a substitute offered by Representatives Sherwood Boehlert and Robert Borski and favorably reported the amended bill by unanimous voice vote. The amendment made technical and clarifying changes, moved specifications relating to monitoring and notification programs from the EPA performance criteria to the State program submissions, changed the cost share for grants to States and local governments to develop and implement monitoring and notification programs so as to allow between 50% and 100% Federal funding, and increased the authorization of appropriations for such grants to \$30,000,000.

On April 15, 1999, the Committee reported the bill, as amended by the Subcommittee, by unanimous voice vote.

## ROLLCALL VOTES

Clause 3(b) of rule XIII requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 999 reported. A motion by Mr. Boehlert to order H.R. 999 reported to the House, without amendment, was unanimously agreed to by voice vote.

## COST OF THE LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

## COMPLIANCE WITH HOUSE RULE XIII

1. Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, oversight findings and recommendations have been made by the Committee as reflected in this report.

2. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

3. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 999.

4. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 999 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, April 19, 1999.

Hon. BUD SHUSTER,  
 Chairman, Committee on Transportation and Infrastructure,  
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 999, the Beaches Environmental Assessment, Cleanup, and Health Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley (for federal costs) and Lisa Cash Driskill (for the state and local impact).

Sincerely,

BARRY B. ANDERSON  
 (For Dan L. Crippen, Director).

Enclosure.

*H.R. 999—Beaches Environmental Assessment, Cleanup, and Health Act of 1999*

Summary: H.R. 999 would amend the Federal Water Pollution Control Act to require states to adopt water quality criteria for coastal recreation waters consistent with those developed by the Environmental Protection Agency (EPA) for the purpose of protecting human health in coastal recreation waters (beaches). The bill would authorize EPA to provide grants to states of \$30 million annually over the 2000–2004 period to implement programs to monitor the quality of coastal waters and to notify the public of any conditions where beach water does not meet the established standards. In addition, the legislation would require EPA to issue new water quality criteria for recreational coastal areas based on studies of potential human health risks in these areas, make available to the public a database of the water quality at coastal recreational areas, and report to the Congress on the efforts under this program.

Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 999 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 999 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal years, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority <sup>1</sup> .....	3	0	0	0	0	0
Estimated Outlays .....	3	0	0	0	0	0
Proposed Changes:						
Estimated Authorization Level .....	0	34	34	34	34	34
Estimated Outlays .....	0	19	28	34	34	34
Spending Under H.R. 999:						
Estimated Authorization Level <sup>1</sup> .....	3	34	34	34	34	34

	By fiscal years, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
Estimated Outlays .....	3	19	28	34	34	34

<sup>1</sup>The 1999 level is the amount appropriated for that year.

Basis of estimate: For purposes of this estimate, CBO assumes that the bill will be enacted before the start of fiscal year 2000 and that the full amounts authorized will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns of similar EPA programs.

The bill authorizes the appropriation of \$30 million a year for grants to states to implement programs to monitor and report on beach water quality. Based on information from EPA, CBO estimates that the agency would incur additional costs of about \$4 million annually over the 2000–2004 period to study health hazards in coastal recreational waters, establish new criteria for monitoring water quality for these waters, develop a national database on pollution of beaches, and report to the Congress on the effectiveness of this program.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 999 contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. While the bill would require states to establish acceptable water quality standards for coastal areas within three and a half years, if states choose not to establish these standards, the EPA would do it for them. The bill would authorize \$30 million annually from 2000 through 2004 for states and local governments to implement eligible monitoring and notification programs. If they choose not to implement these programs, the EPA would be directed to use remaining money authorized by this bill to provide those programs for them. Any costs incurred by state and local governments to implement these programs would be voluntary and conditions of receiving grant assistance.

Estimate prepared by: Federal Costs: Kim Cawley. Impact on State, Local, and Tribal Governments: Lisa Cash Driskill.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**FEDERAL WATER POLLUTION CONTROL ACT**

**TITLE I—RESEARCH AND RELATED PROGRAMS**

\* \* \* \* \*

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) \* \* \*

\* \* \* \* \*

*(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 3 years after the date of enactment of this subsection, and after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials) and other interested persons, the Administrator shall conduct, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—*

*(1) a more complete determination of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including effects to the upper respiratory system;*

*(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;*

*(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of pathogens that are harmful to human health; and*

*(4) guidance for State application of the criteria for pathogens and pathogen indicators to be issued under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.*

\* \* \* \* \*

**TITLE III—STANDARDS AND ENFORCEMENT**

\* \* \* \* \*

WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS

SEC. 303. (a) \* \* \*

\* \* \* \* \*

(i) COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS.—

(1) ADOPTION BY STATES.—

(A) INITIAL CRITERIA AND STANDARDS.—*Not later than 3½ years after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for such waters for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).*

(B) NEW OR REVISED STANDARDS.—*Not later than 3 years after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for such waters for all pathogens and pathogen indicators for which the Administrator publishes new or revised water quality criteria.*

(2) FAILURE OF STATES TO ADOPT.—*If a State has not complied with paragraph (1)(A) by the date specified in paragraph (1)(A), the Administrator shall promptly prepare and publish proposed regulations for the State setting forth revised or new water quality standards for coastal recreation waters for the pathogens and pathogen indicators subject to paragraph (1)(A). If the Administrator prepares and publishes such regulations under subsection (c)(4)(B) before the date specified in paragraph (1)(A), the Administrator shall promulgate any revised or new standard under this paragraph not later than the date specified in paragraph (1)(A).*

(3) SAVINGS CLAUSE.—*Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection.*

INFORMATION AND GUIDELINES

SEC. 304. (a)(1) \* \* \*

\* \* \* \* \*

(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

(A) IN GENERAL.—*Not later than 4 years after the date of enactment of this paragraph, and after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials), the Administrator shall issue new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate) based on the results of the studies conducted under section 104(v) for the purpose of protecting human health in coastal recreation waters.*

(B) REVIEWS.—*At least once every 5 years after the date of issuance of water quality criteria under this paragraph,*

*the Administrator shall review and, as necessary, revise the water quality criteria.*

\* \* \* \* \*

**TITLE IV—PERMITS AND LICENSES**

\* \* \* \* \*

**SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.**

*(a) MONITORING AND NOTIFICATION.—Not later than 18 months after the date of enactment of this section, after consultation and collaboration with appropriate Federal, State, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—*

*(1) monitoring (including specifying available methods for monitoring) coastal recreation waters adjacent to beaches (or other points of access) that are open to the public for attainment of applicable water quality standards for pathogens and pathogen indicators and for protection of public safety from floatable materials; and*

*(2) promptly notifying the public, local governments, and the Administrator of any exceedance of applicable water quality standards for coastal recreation waters described in paragraph (1) (or the immediate likelihood of such an exceedance).*

*The performance criteria shall provide for the activities described in paragraphs (1) and (2) to be carried out as necessary for the protection of public health and safety.*

*(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—*

*(1) IN GENERAL.—The Administrator shall make grants to States and local governments for the purpose of developing and implementing programs for monitoring and notification, as provided in paragraphs (2) and (3).*

*(2) STATE PROGRAMS.—*

*(A) IN GENERAL.—The Administrator shall make grants to a State for developing and implementing a program for monitoring and notification to protect public health and safety that meets the performance criteria established under subsection (a) for coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are subject to the jurisdiction of the State.*

*(B) REQUIREMENTS.—The Administrator shall make grants for implementation of a program of a State under subparagraph (A) only if the Administrator determines that—*

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

*(ii) the program meets the performance criteria under subsection (a), based on a review of the program, including information provided by the State under clause (iii); and*

*(iii) the program—*



(I) identifies coastal recreation waters within the jurisdiction of the State;

(II) identifies those coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and subject to the jurisdiction of the State and that are covered by the program;

(III) identifies those coastal recreation waters covered by the program that would be given a priority for monitoring and notification if fiscal constraints prevent compliance at all coastal recreation waters covered by the program with the performance criteria established under subsection (a);

(IV) identifies the process for making any delegation of responsibility for implementing the program to local governments, the local governments, if any, to which the State has delegated or intends to delegate such responsibility, and the coastal recreation waters covered by the program that are or would be the subject of such delegation;

(V) specifies the frequency of monitoring based on the periods of recreational use of such waters and the nature and extent of use during such periods;

(VI) specifies the frequency and location of monitoring based on the proximity of such waters to known point and nonpoint sources of pollution and in relation to storm events;

(VII) specifies which methods will be used for detecting levels of pathogens and pathogen indicators that are harmful to human health and for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters, including in relation to storm events;

(VIII) specifies measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of such an exceedance (or the immediate likelihood of such an exceedance) to the Administrator and a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters covered by the State program for which an exceedance is identified; and

(IX) specifies measures for posting of signs at the beach (or other point of access), or functionally equivalent communication measures, sufficient to give notice to the public of an exceedance (or the immediate likelihood of an exceedance) of applicable water quality criteria for pathogens and pathogen indicators for such waters and the potential risks associated with water contact activities in such waters.

(3) LOCAL PROGRAMS.—

(A) *IN GENERAL.*—The Administrator shall make a grant to a local government for developing and implementing a program for monitoring and notification to protect public health and safety that meets the performance criteria established under subsection (a) for coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and subject to the jurisdiction of the local government.

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

(i) the State in which the local government is located did not submit a grant application meeting the requirements of paragraph (2)(B) within one year following the date of publication of performance criteria under subsection (a);

(ii) the local government program has been developed through a process that provides for public notice and an opportunity for comment;

(iii) the local government program meets the performance criteria under subsection (a), based on a review of the local government program, including information provided by the local government under paragraph (2)(B)(iii); and

(iv) the local government program addresses the matters identified in paragraph (2)(B)(iii) with respect to such waters.

(4) *LIST OF WATERS.*—Following receipt of a grant under this subsection, a State or local government shall apply the prioritization established by the State or local government under paragraph (2)(B)(iii)(III) and promptly submit to the Administrator—

(A) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided where the performance criteria under subsection (a) will be met; and

(B) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided where fiscal constraints will prevent compliance with the performance criteria under subsection (a).

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

(6) *DELEGATION.*—If a State delegates responsibility for monitoring and notification under this subsection to a local government, the State shall make a portion of any grant received by the State under paragraph (2) available to the local government in an amount commensurate with the responsibilities delegated.

(c) *INFORMATION DATABASE.*—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides information on exceedances of applicable water quality standards for pathogens and pathogen indicators for coastal recreation waters using information reported to the Administrator pursuant to a monitoring and notification program that meets the performance criteria established under subsection (a). The Administrator may include in the database information made available to the Administrator from other coastal water quality monitoring programs determined to be reliable by the Administrator. The database may provide information through electronic links to other databases determined to be reliable by the Administrator.

(d) *TECHNICAL ASSISTANCE.*—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable materials to protect public health and safety in coastal recreation waters.

(e) *LIST OF WATERS.*—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), the Administrator shall maintain a list of discrete areas of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are not subject to a program for monitoring and notification meeting the performance criteria established under subsection (a) based on information made available to the Administrator. The list also shall identify discrete areas of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are subject to a monitoring and notification program meeting the performance criteria established under subsection (a). The Administrator shall make the list available to the public through publication in the Federal Register and through electronic media. The Administrator shall update the list at least annually.

(f) *EPA IMPLEMENTATION.*—After the last day of the 3-year period beginning on the date the Administrator identifies a discrete area of coastal recreation waters adjacent to beaches (or other points of access) that are open to the public and are not subject to a monitoring and notification program meeting the performance criteria established under subsection (a), the Administrator shall conduct such a monitoring and notification program for the discrete area using the funds appropriated for grants under subsection (b), including salaries, expenses, and travel. The Administrator's duties under this paragraph shall be limited to the activities that can be performed using such funds.

(g) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated for making grants to States and local governments under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (f), \$30,000,000 for each of fiscal years 2000 through 2004.

#### TITLE V—GENERAL PROVISIONS

\* \* \* \* \*

GENERAL DEFINITIONS

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) \* \* \*

\* \* \* \* \*

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

(22) *FLOATABLE MATERIALS.*—The term “floatable materials” means any foreign matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood products, bottles, and paper products.

(23) *PATHOGEN INDICATORS.*—The term “pathogen indicators” means substances that indicate the potential for human infectious disease.

\* \* \* \* \*

