

110TH CONGRESS
2D SESSION

S. 2844

To amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2008

Mr. LAUTENBERG (for himself, Mr. VOINOVICH, Mr. MENENDEZ, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Beach Protection Act
5 of 2008”.

6 **SEC. 2. BEACHWATER POLLUTION SOURCE IDENTIFICA-**
7 **TION AND PREVENTION.**

8 (a) IN GENERAL.—Section 406 of the Federal Water
9 Pollution Control Act (33 U.S.C. 1346) is amended in

1 each of subsections (b), (c), (d), (g), and (h) by striking
 2 “monitoring and notification” each place it appears and
 3 inserting “monitoring, public notification, source tracking,
 4 sanitary surveys, and prevention efforts to address the
 5 identified sources of beachwater pollution”.

6 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 7 406(i) of the Federal Water Pollution Control Act (33
 8 U.S.C. 1346(i)) is amended by striking “\$30,000,000 for
 9 each of fiscal years 2001 through 2005” and inserting
 10 “\$60,000,000 for each of fiscal years 2008 through 2013,
 11 of which—

12 “(1) up to 10 percent of the initial \$10,000,000
 13 made available for a fiscal year, at the direction of
 14 the States, may be used to remediate problems de-
 15 tected through beachwater monitoring and source
 16 identification programs funded, in whole or in part,
 17 by the Beaches Environmental Assessment and
 18 Coastal Health Act of 2000 (Public Law 106–284;
 19 114 Stat. 870), the Beach Protection Act of 2008,
 20 or an amendment made by either of those Acts;

21 “(2) up to 40 percent of the next \$5,000,000
 22 made available for the fiscal year, at the direction of
 23 the States, may be used to remediate those prob-
 24 lems; and

1 “(3) up to 50 percent of the remaining
 2 \$45,000,000 made available for the fiscal year, at
 3 the direction of the States, may be used to remediate
 4 those problems.”.

5 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
 6 **MENT AND COASTAL HEALTH ACT.**

7 Section 8 of the Beaches Environmental Assessment
 8 and Coastal Health Act of 2000 (114 Stat. 877) is amend-
 9 ed by striking “2005” and inserting “2013”.

10 **SEC. 4. STATE REPORTS.**

11 Section 406(b)(3)(A)(ii) of the Federal Water Pollu-
 12 tion Control Act (33 U.S.C. 1346(b)(3)(A)(ii)) is amended
 13 by inserting “and all environmental agencies of the State
 14 with authority to prevent or treat sources of beachwater
 15 pollution” after “public”.

16 **SEC. 5. USE OF RAPID TESTING METHODS.**

17 (a) CONTENTS OF STATE AND LOCAL GOVERNMENT
 18 PROGRAMS.—Section 406(c)(4)(A) of the Federal Water
 19 Pollution Control Act (33 U.S.C. 1346(c)(4)(A)) is
 20 amended by inserting “, including the use of a rapid test-
 21 ing method after the last day of the 1-year period fol-
 22 lowing the date of approval of the rapid testing method
 23 by the Administrator” before the semicolon at the end.

1 (b) REVISED CRITERIA.—Section 304(a)(9) of the
 2 Federal Water Pollution Control Act (33 U.S.C.
 3 1314(a)(9)) is amended—

4 (1) in subparagraph (A)—

5 (A) by inserting “rapid” before “testing”;

6 and

7 (B) by striking “, as appropriate”; and

8 (2) by adding at the end the following:

9 “(C) VALIDATION OF RAPID TESTING
 10 METHODS.—Not later than 2 years after the
 11 date of enactment of this subparagraph, and
 12 periodically thereafter, the Administrator shall
 13 validate the rapid testing methods.”.

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

17 “(25) RAPID TESTING METHOD.—The term
 18 ‘rapid testing method’ means a method of testing for
 19 which results are available within 2 hours.”.

20 **SEC. 6. PROMPT COMMUNICATION WITH STATE ENVIRON-**
 21 **MENTAL AGENCIES.**

22 Section 406(c)(5) of the Federal Water Pollution
 23 Control Act (33 U.S.C. 1346(c)(5)) is amended—

24 (1) in the matter preceding subparagraph (A),

25 by striking “prompt communication” and inserting

1 “communication within 24 hours of the receipt of
2 the results of a water quality sample”;

3 (2) in subparagraph (A), by striking “and” at
4 the end;

5 (3) in subparagraph (B), by inserting “and”
6 after the semicolon at the end; and

7 (4) by adding at the end the following:

8 “(C) all agencies of the State government
9 with authority to require the prevention or
10 treatment of the sources of beachwater pollu-
11 tion;”.

12 **SEC. 7. CONTENT OF STATE AND LOCAL PROGRAMS.**

13 Section 406(c) of the Federal Water Pollution Con-
14 trol Act (33 U.S.C. 1346(c)) is amended—

15 (1) in paragraph (6), by striking “and” at the
16 end;

17 (2) in paragraph (7), by striking the period at
18 the end and inserting a semicolon;

19 (3) by adding at the end the following:

20 “(8) measures to develop and implement a
21 beachwater pollution source identification and track-
22 ing program for the coastal recreation waters that
23 are not meeting applicable water quality standards
24 for pathogens;

1 “(9) a publicly accessible and searchable global
 2 information system database with information up-
 3 dated within 24 hours of the availability of the infor-
 4 mation, organized by beach and with defined stand-
 5 ards, sampling plan, monitoring protocols, sampling
 6 results, and number and cause of beach closing and
 7 advisory days; and

8 “(10) measures to ensure that closures or
 9 advisories are made or issued within 24 hours after
 10 the State government determines that any coastal
 11 recreation waters in the State are not meeting or are
 12 not expected to meet applicable water quality stand-
 13 ards for pathogens.”.

14 **SEC. 8. COMPLIANCE REVIEW.**

15 Section 406(h) of the Federal Water Pollution Con-
 16 trol Act (33 U.S.C. 1346(h)) is amended—

17 (1) by redesignating paragraphs (1) and (2) as
 18 subparagraphs (A) and (B), respectively, and indent-
 19 ing the subparagraphs appropriately;

20 (2) by striking “In the” and inserting the fol-
 21 lowing: “(1) IN GENERAL.—In the”; and

22 (3) by adding at the end the following:

23 “(2) COMPLIANCE REVIEW.—On or before July
 24 31 of each calendar year beginning after the date of

1 enactment of this paragraph, the Administrator
2 shall—

3 “(A) prepare a written assessment of com-
4 pliance with all statutory and regulatory re-
5 quirements of this section for each State and
6 local government and of compliance with condi-
7 tions of each grant made under this section to
8 a State or local government;

9 “(B) notify the State or local government
10 of the assessment; and

11 “(C) make each of the assessments avail-
12 able to the public in a searchable database on
13 or before December 31 of the calendar year.

14 “(3) CORRECTIVE ACTION.—

15 “(A) IN GENERAL.—Any State or local
16 government that the Administrator notifies
17 under paragraph (2) that the State or local gov-
18 ernment is not in compliance with any require-
19 ment or grant condition described in paragraph
20 (2) shall take such action as is necessary to
21 comply with the requirement or condition by
22 not later than 1 year after the date of the noti-
23 fication.

24 “(B) NONCOMPLIANCE.—If the State or
25 local government is not in compliance with such

a requirement or condition by the date that is 1 year after the deadline specified in subparagraph (A), any grants made under subsection (b) to the State or local government, after the last day of the 1-year period and while the State or local government is not in compliance with all requirements and grant conditions described in paragraph (2), shall require a Federal share of not to exceed 50 percent.

“(4) GAO REVIEW.—Not later than December 31 of the third calendar year beginning after the date of enactment of this paragraph, the Comptroller General of the United States shall—

“(A) conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after that date of enactment; and

“(B) submit to Congress a report on the results of the review.”.

SEC. 9. STUDY OF GRANT DISTRIBUTION FORMULA.

(a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”) shall commence a study of the formula for the distribution of grants under section 406

1 of the Federal Water Pollution Control Act (33 U.S.C.
2 1346) for the purpose of identifying potential revisions of
3 that formula.

4 (b) REQUIREMENTS.—In conducting the study, the
5 Administrator shall—

6 (1) consider the emphasis and valuation placed
7 on length of beach season, including any findings
8 made by the Government Accountability Office with
9 respect to that emphasis and valuation; and

10 (2) consult with appropriate Federal, State, and
11 local agencies.

12 (c) REPORT AND REVISION.—Not later than 1 year
13 after the date of enactment of this Act, the Administrator
14 shall—

15 (1) submit to the Committee on Environment
16 and Public Works of the Senate and the Committee
17 on Transportation and Infrastructure of the House
18 of Representatives a report on the results of the
19 study, including any recommendations for revisions
20 of the distribution formula referred to in subsection
21 (a); and

22 (2) revise the distribution formula referred to in
23 subsection (a) in accordance with those rec-
24 ommendations.

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