

## Calendar No. 871

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### BEACH ACT OF 2008

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JULY 10 (legislative day, JULY 9), 2008.—Ordered to be printed  
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Mrs. BOXER, from the Committee on Environment and Public Works, Submitted the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany S. 2844]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 2844) to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, and for other purposes, reports favorably with amendments thereon and recommends that the bill, as amended, do pass.

#### PURPOSES OF THE LEGISLATION

The purposes of the BEACH Act of 2008 (the Act) include measures to prescribe the use of rapid testing methods for the testing of pollutants in beaches, mandate a 24 hour public notice requirement, expand the scope of grants to include pollution tracking and remediation activities, require an assessment of the grant distribution formula, and increase the authorization limit from \$30,000,000 to \$60,000,000.

#### GENERAL STATEMENT AND BACKGROUND

The Act amends Federal Water Pollution Control Act to update the testing methods that are used to test for water-borne pathogens and other contaminants with potential harmful human health side effects, reauthorizing the Beaches Environmental Assessment and Coastal Health Act of 2000 (BEACH Act), improve source identi-

fication and prevention efforts, ensure prompt communication with state environmental agencies, and to improve funded state and local beachwater programs.

In 2000, when the original BEACH (Beaches Environmental Assessment and Coastal Health) Act became law, the Act's goal was to improve public awareness of water quality at our nation's beaches. The public health risks from swimming in polluted coastal waters continue to be an issue in certain regions of the United States. The U.S. Environmental Protection Agency's (EPA's) research has found that contact with contaminated water can lead to gastrointestinal disorders and ear or skin infections, and inhalation of contaminated water can cause respiratory diseases. The pathogens responsible for these diseases can be bacteria, viruses, protozoa, fungi, and other parasites. Public health risks are especially significant for sensitive subpopulations that are particularly vulnerable to certain pathogens. The BEACH Act of 2000 was successful at prompting states to adopt water quality criteria and strengthened public reporting requirements.

The BEACH Act of 2008 improves upon the existing law. It does so by requiring the use of rapid testing methods. Unlike existing methods, which permit as many as three days to go by before water testing results are communicated and decisions to close down beaches are made, the Act uses rapid testing methods to quickly test water quality and allow for more rapid decisions to be made about beach closures in order to better protect public health. Rapid testing methods are defined as those that require two hours—from the commencement of the test—for completion.

Additionally, the Act requires that information obtained from these test methods are communicated to the public within 24 hours. This is a clarification of existing law, which does not specify a time for the communication to occur.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 would provide that the Act may be cited as the "BEACH Act of 2008".

##### *Section 2. Beachwater pollution source identification and prevention*

Section 2 would amend Section 406 of the Federal Water Pollution Control Act (33 U.S.C. 1346), to specify that the intent of the act relates to "monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution" instead of "monitoring and notification." It also amends the authorization of the Act to \$60 million. In addition, section 2 specifies that up to 10 percent of the initial \$10 million in appropriations may go towards remediation of source pollution detected by the BEACH Act. Moreover, up to 40 percent of the next \$5 million in appropriated funding above \$10 million may go to this remediation, and up to 50 percent of funding above \$15 million in appropriations (the remaining \$45 million made available for the fiscal year) may go to this remediation.

*Section 3. Funding for Beaches Environmental Assessment and Coastal Health Act*

Section 3 would extend the authorization of the Act until 2013.

*Section 4. State reports*

Section 4 specifies that the all environmental state agencies with authority to treat sources of beachwater pollution must be notified if water quality standards are exceeded.

*Section 5. Use of rapid testing methods*

Section 5 specifies that in order to receive grant money as specified by this bill a state or local government program must identify rapid testing methods to test water quality. Rapid testing is defined as a method of testing for which results are available within 2 hours after the commencement of the test. Section 5 also requires the Administrator to validate these rapid testing methods in no later than 2 years after enactment.

*Section 6. Prompt communication with state environmental agencies*

Section 6 specifies that in order to receive grant money, a state or local government program must identify measures to ensure the results of the testing methods will be communicated to all state agencies that have the authority to treat sources of beachwater pollution within 24 hours of obtaining test results.

*Section 7. Content of state and local programs*

Section 7 specifies that as a condition of receiving grant money from this Act, a program must create a database of certain data accumulated through the testing process, and identify methods to communicate information to the public and the measures that are used to develop and implement a beachwater pollution source identification and tracking program for the coastal recreation waters that are not meeting applicable water quality standards for pathogens. Specifically, these programs must identify: (a) measures to develop and implement a beachwater pollution source identification and tracking program for the coastal recreation waters that are not meeting applicable water quality standards for pathogens; (b) a publicly accessible and searchable global information system database with information updated within 24 hours of the availability of the information, organized by beach and with defined standards, sampling plan, monitoring protocols, sampling results, and number and cause of beach closing and advisory days; and (c) measures to ensure that closures or advisories are made or issued within 24 hours after the State government determines that any coastal recreation waters in the State are not meeting or are not expected to meet applicable water quality standards for pathogens.

*Section 8. Compliance review*

Section 8 requires annual compliance reviews to ensure that programs that are receiving grant money under this Act are complying with its requirements, and that any shortcomings are promptly corrected. The Government Accountability Office is required to complete a review every three years.

*Section 9. Study of grant distribution formula*

Section 9 requires a review of the Act's grant formula ensure that the distribution of the grant funding, as provided by EPA, is done in an equitable and appropriate way, considering the emphasis and valuation placed on length of beach season, including any findings made by the Government Accountability Office with respect to that emphasis and valuation. Under the Act, EPA must study the distribution of its grants, and report to Congress within one year, as well as modify its grant formulas based on those findings.

LEGISLATIVE HISTORY

S. 2766 was introduced by Senator Lautenberg of New Jersey, and Senator Voinovich of Ohio, and Senator Menendez of New Jersey and Senator Warner of Virginia. They were later joined by the following cosponsors: Senators Cardin, Durbin, Kerry, Klobuchar, Lieberman, and Stabenow. (as of June 20, 2008). The bill was read twice and referred to the Senate Committee on Environment and Public Works. The Committee met on May 21, 2008, when S. 2844 was ordered favorably reported as amended by voice vote.

HEARINGS

The Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality held a hearing entitled, "Protecting Water Quality at America's Beaches" on Wednesday, June 27, 2008, at which the BEACH Act and related legislation (including S. 1506) were discussed.

ROLLCALL VOTES

The Committee adopted, by unanimous consent, amendments proposed by Senator Inhofe to clarify the time at which results from a rapid testing method shall be available, and to clarify that a State or local government that is not in compliance with certain requirements shall be required to pay a cost-share of up to 50 percent.

REGULATORY IMPACT STATEMENT

The Committee notes that the Congressional Budget Office has determined that S. 2844 contains no private sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

MANDATES ASSESSMENT

The Committee notes that the Congressional Budget Office has determined that S. 2844 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 2844—Beach Protection Act of 2008*

Summary: S. 2844 would authorize the appropriation of \$60 million a year over the 2008–2013 period for the water quality pro-

gram that benefits coastal states under the Clean Water Act. Under this program, the Environmental Protection Agency (EPA) provides grants to state or local governments to support their efforts to monitor the quality of coastal waters and notify the public when beach water does not meet established standards. This legislation also would authorize the appropriation of such sums as necessary to manage the water quality program through 2013.

Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost \$293 million over the 2009–2013 period and \$12 million after 2013. Enacting the legislation would not affect direct spending or revenues.

S. 2844 contains no intergovernmental 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 S. 2844 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Administrative Support:						
Estimated Authorization Level .....	1	1	1	1	1	5
Estimated Outlays .....	1	1	1	1	1	5
Beach Protection Grants:						
Authorization Level .....	60	60	60	60	60	300
Estimated Outlays .....	48	60	60	60	60	288
Spending Under S. 2844:						
Estimated Authorization Level .....	61	61	61	61	61	305
Estimated Outlays .....	49	61	61	61	61	293

Basis of estimate: For this estimate, CBO assumes that S. 2844 will be enacted before the end of fiscal year 2008 and that the necessary funds will be appropriated for each year beginning in 2009.

The bill would authorize the appropriation of \$60 million annually over the 2008–2013 period for grants to state and local governments to implement beach water quality and public notification programs. Based on historical spending patterns for those grants, CBO estimates that providing the grants would cost \$288 million over the 2009–2013 period and \$12 million after 2013.

S. 2844 also would authorize the appropriation of such sums as may be necessary for EPA to manage the program through 2013. Assuming appropriations for such administrative activities would continue at the 2008 level, CBO estimates that implementing the program would cost about \$1 million a year over the 2009–2013 period. In total, CBO estimates that outlays resulting from the appropriations for grants and administrative activities would sum to \$293 million over the 2009–2013 period.

Intergovernmental and private-sector impact: S. 2844 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On November 13, 2007, CBO transmitted a cost estimate for H.R. 2537 as ordered reported by the House Committee on Transportation and Infrastructure on October

31, 2007. The bill is similar to S. 2844, but the Senate version of the legislation would authorize the appropriation of \$60 million annually through 2013 while the House version would authorize the appropriation of \$40 million annually through 2012. As a result, CBO estimates that S. 2844 would cost \$107 million more than H.R. 2537 over the 2009–2013 period.

Estimate prepared by: Federal Costs: Susanne Mehlman and Jeffrey LaFave; impact on State, Local, and Tribal Governments: Neil Hood; impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

## ADDITIONAL VIEWS OF SENATOR INHOFE

I appreciate the success of states and communities providing appropriate public health information to citizens swimming and recreating in proximity to our nation's beaches. The BEACH Act authorization culminated in 2005 and I agree that reauthorization is appropriate. However, S. 2844, the BEACHES Act of 2008, has significant issues accompanying the reauthorization language.

The BEACHES Act of 2008 (the Act) doubles the appropriations authorization and greatly expands the original intent of the BEACHES Act of 2000 grant program. Since 2000, the legislation has provided authority and funding for states and local governments to monitor and issue public health advisories when beach water is deemed unsafe for human contact. This legislation increases the authorized activities under the grants to include tracking and treating beach water-related pollution. To cover the cost of this expansion, the bill doubles the appropriation authorization from \$30,000,000 to \$60,000,000. I believe this increase in the appropriation authorization is unwarranted based on the approximate annual appropriations average of \$10,000,000, which is only  $\frac{1}{3}$  the authorized appropriation ceiling. Additionally, I believe grants authorized for pollution remediation should leverage state and local funding sources by requiring a non-federal cost share analogous to current grant programs outlined in the Federal Water Pollution Control Act (i.e. Section 205 Capitalization Grants).

Concerns also arise from Section 5 of the Act requiring the use and validation of rapid testing methods based on criteria that is currently being revised. Presently, EPA's water quality testing criteria is based on lengthy sampling and testing processes, including growing and counting bacteria over a 24 to 48 hour period. It's illogical to mandate that new testing methods be established based on old criteria, but rather they should be constructed inversely by first allowing EPA to establish criteria, followed by rapid testing method validation. EPA, in coordination with stakeholders, has committed to updating its water quality criteria by no later than 2012. This legislation should require that rapid testing methods be based on up-to-date criterion instead of imposing potentially substantial testing costs to state and local governments when testing methods and testing equipment requirements are could change.

It is also apparent that grant funding will likely be used beyond monitoring and remediation actions and includes enforcement related activities through "source identification" and "reporting." Currently, Congress provides funding for both remediation through a variety of grants including State Revolving Funds, as well as, water discharge and pollution tracking through the Environmental Protection Agencies annual enforcement budget. I believe these inclusions to the BEACH Act reauthorization are duplicative.

Overall, the bill adds additional requirements to grant recipients for a program that receives approximately  $\frac{1}{3}$  of its annual authorized appropriations, unjustifiably doubles the appropriation authorization, adds grants for duplicative activities, inappropriately mandates testing methods before important pollution criterion are established, and inequitably excludes states and local governments from 100 percent federally funded grants for water infrastructure projects based on their proximity to Great Lake and Ocean beaches.

JAMES M. INHOFE.



CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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**

DECLARATION OF GOALS AND POLICY

SEC. 101. (a)\* \* \*

\* \* \* \* \*

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2)\* \* \*

\* \* \* \* \*

(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of *rapid* 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.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.

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

\* \* \* \* \*

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

(a) MONITORING AND NOTIFICATION.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or similar points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

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

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

(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

(2) LIMITATIONS.—

(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program if—

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

(ii) the State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

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

(iv) the State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

(v) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

(B) GRANTS TO LOCAL GOVERNMENTS.—The Administrator may make a grant to a local government under this subsection for implementation of a **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program only if, after the 1-year period beginning on the date of publication of performance criteria under subsection (a)(1), the Administrator determines that the State is not implementing a program that meets the requirements of this subsection, regardless of whether the State has received a grant under this subsection.

(3) OTHER REQUIREMENTS.—

(A) REPORT.—A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, a report that describes—

(i) data collected as part of the program for **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* as described in subsection (c); and

(ii) actions taken to notify the public *and all environmental agencies of the State with authority to prevent or treat sources of beachwater pollution* when water quality standards are exceeded.

(B) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program would be subject to the delegation).

(4) FEDERAL SHARE.—

(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* under this subsection.

(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program may be—

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

(ii) provided in cash or in kind.

(c) CONTENT OF STATE AND LOCAL GOVERNMENT PROGRAMS.—As a condition of receipt of a grant under subsection (b), a State or local government program for **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* under this section shall identify—

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

(2) in the case of a State program for **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution*, the process by which the State may delegate to local governments responsibility for implementing the **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program;

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

(A) the periods of recreational use of the waters;

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

(C) the proximity of the waters to known point sources and nonpoint sources of pollution; and

(D) any effect of storm events on the waters;

(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health, *including the use of a rapid testing method after the last day of the 1-year period following the date of approval of the rapid testing method by the Administrator*; and

(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

(5) measures for **【prompt communication】** *communication within 24 hours of the receipt of the results of a water quality*

*sample* of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

(A) the Administrator, in such form as the Administrator determines to be appropriate; **[and]**

(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified; *and*

*(C) all agencies of the State government with authority to require the prevention or treatment of the sources of beachwater pollution;*

(6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; **[and]**

(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards~~].~~;

*(8) measures to develop and implement a beachwater pollution source identification and tracking program for the coastal recreation waters that are not meeting applicable water quality standards for pathogens;*

*(9) a publicly accessible and searchable global information system database with information updated within 24 hours of the availability of the information, organized by beach and with defined standards, sampling plan, monitoring protocols, sampling results, and number and cause of beach closing and advisory days; and*

*(10) measures to ensure that closures or advisories are made or issued within 24 hours after the State government determines that any coastal recreation waters in the State are not meeting or are not expected to meet applicable water quality standards for pathogens.*

(d) FEDERAL AGENCY PROGRAMS.—Not later than 3 years after the date of the enactment of this section, each Federal agency that has jurisdiction over coastal recreation waters adjacent to beaches or similar points of access that are used by the public shall develop and implement, through a process that provides for public notice and an opportunity for comment, a **[monitoring and notification] monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution** program for the coastal recreation waters that—

(1) protects the public health and safety;

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

(3) includes a completed report on the information specified in subsection (b)(3)(A), to be submitted to the Administrator; *and*

(4) addresses the matters specified in subsection (c) .

(e) 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—

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

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

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

(B) the Administrator determines should be included.

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

(g) LIST OF WATERS.—

(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

(A) specifies any waters described in this paragraph that are subject to a [monitoring and notification] *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program consistent with the performance criteria established under subsection (a); and

(B) specifies any waters described in this paragraph for which there is no [monitoring and notification] *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program (including waters for which fiscal constraints will prevent the State or the Administrator from performing [monitoring and notification] *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* consistent with the performance criteria established under subsection (a)).

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

(A) publication in the Federal Register; and

(B) electronic media.

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

(h) EPA IMPLEMENTATION.—[In the]

(1) IN GENERAL.—*In the case of a State that has no program for [monitoring and notification] monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution that is consistent with the performance criteria published under sub-*

section (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—

**【(1)】(A)** to conduct **【monitoring and notification】** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution*; and

**【(2)】(B)** for related salaries, expenses, and travel.

(2) **COMPLIANCE REVIEW.**—*On or before July 31 of each calendar year beginning after the date of enactment of this paragraph, the Administrator shall—*

(A) *prepare a written assessment of compliance with all statutory and regulatory requirements of this section for each State and local government, and of compliance with conditions of each grant made under this section to a State or local government, including compliance with any requirement or condition under subsection (a)(2) or (c);*

(B) *notify the State or local government of the assessment; and*

(C) *make each of the assessments available to the public in a searchable database on or before December 31 of the calendar year.*

(3) **CORRECTIVE ACTION.**—

(A) **IN GENERAL.**—*Any State or local government that the Administrator notifies under paragraph (2) that the State or local government is not in compliance with any requirement or grant condition described in paragraph (2) shall take such action as is necessary to comply with the requirement or condition by not later than 1 year after the date of the notification.*

(B) **NONCOMPLIANCE.**—*If the State or 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.*

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of **[monitoring and notification]** *monitoring, public notification, source tracking, sanitary surveys, and prevention efforts to address the identified sources of beachwater pollution* programs by the Administrator under subsection (h), **[\$30,000,000 for each of fiscal years 2001 through 2005]** *\$60,000,000 for each of fiscal years 2008 through 2013, of which—*

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

(2) up to 40 percent of the next \$5,000,000 made available for the fiscal year, at the direction of the States, may be used to remediate those problems; and

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

\* \* \* \* \*

GENERAL DEFINITIONS

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

(1) The term “State water pollution control agency” means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2)\* \* \*

\* \* \* \* \*

(25) RAPID TESTING METHOD.—*The term “rapid testing method” means a method of testing for which results are available within 2 hours after commencement of the rapid testing method.*

\* \* \* \* \*

**BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT OF 2000**

\* \* \* \* \*

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

There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through **[2005]** 2013.

\* \* \* \* \*