

105TH CONGRESS
1ST SESSION

S. 971

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

IN THE SENATE OF THE UNITED STATES

JUNE 26, 1997

Mr. LAUTENBERG (for himself and Mr. TORRICELLI) 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 improve the quality of coastal recreation waters, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Beaches Environ-
5 mental Assessment, Closure, and Health Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) the Nation's beaches are a valuable public
2 resource used for recreation by millions of people an-
3 nually;

4 (2) the beaches of coastal States are hosts to
5 many out-of-State and international visitors;

6 (3) tourism in the coastal zone generates bil-
7 lions of dollars annually;

8 (4) increased population has contributed to the
9 decline in the environmental quality of coastal wa-
10 ters;

11 (5) pollution in coastal waters is not restricted
12 by State and other political boundaries;

13 (6) coastal States have different methods of
14 testing the quality of coastal recreation waters, pro-
15 viding varying degrees of protection to the public;

16 (7) the adoption of consistent criteria by coastal
17 States for monitoring the quality of coastal recre-
18 ation waters, and the posting of signs at beaches no-
19 tifying the public during periods when the standards
20 are exceeded, would enhance public health and safe-
21 ty; and

22 (8) while the adoption of such criteria will en-
23 hance public health and safety, exceedances of such
24 criteria should be addressed, where feasible, as part

1 of a watershed approach to effectively identify and
2 eliminate sources of pollution.

3 (b) PURPOSE.—The purpose of this Act is to require
4 uniform criteria and procedures for testing, monitoring,
5 and posting of coastal recreation waters at beaches open
6 for use by the public to protect public safety and improve
7 environmental quality.

8 **SEC. 3. ADOPTION OF COASTAL RECREATIONAL WATER**
9 **QUALITY CRITERIA BY STATES.**

10 (a) GENERAL RULE.—A State shall adopt water
11 quality criteria for coastal recreation waters which, at a
12 minimum, are consistent with the criteria published by the
13 Administrator under section 304(a)(1) of the Federal
14 Water Pollution Control Act (33 U.S.C. 1314(a)(1)) not
15 later than 3½ years following the date of the enactment
16 of this Act. Such water quality criteria shall be developed
17 and promulgated in accordance with the requirements of
18 section 303(c) of the Federal Water Pollution Control Act
19 (33 U.S.C. 1313(c)). A State shall incorporate such cri-
20 teria into all appropriate programs into which such State
21 would incorporate other water quality criteria adopted
22 under such section 303(c) and revise such criteria not
23 later than 3 years following the date of publication of revi-
24 sions by the Administrator under section 4(b) of this Act.

1 (b) FAILURE OF STATES TO ADOPT.—If a State has
2 not complied with subsection (a) by the last day of the
3 3½-year period beginning on the date of the enactment
4 of this Act, the water quality criteria issued by the Admin-
5 istrator under section 304(a)(1) of the Federal Water Pol-
6 lution Control Act shall become applicable as the water
7 quality criteria for coastal recreational waters for the
8 State, and shall be deemed to have been promulgated by
9 the Administrator pursuant to section 303(c)(4).

10 **SEC. 4. REVISIONS TO WATER QUALITY CRITERIA.**

11 (a) STUDIES.—After consultation with appropriate
12 Federal, State, and local officials, including local health
13 officials, and other interested persons, but not later than
14 the last day of the 3-year period beginning on the date
15 of the enactment of this Act, the Administrator shall con-
16 duct, in cooperation with the Under Secretary of Com-
17 merce for Oceans and Atmosphere, studies to provide ad-
18 ditional information to the current base of knowledge for
19 use in developing—

20 (1) a more complete list of potential health
21 risks, including effects to the upper respiratory sys-
22 tem;

23 (2) better indicators for directly detecting or
24 predicting in coastal recreational waters the presence

1 of pathogens which are harmful to human health;
2 and

3 (3) more expeditious methods (including pre-
4 dictive models) for detecting in coastal recreation
5 waters the presence of pathogens which are harmful
6 to human health.

7 (b) REVISED CRITERIA.—Based on the results of the
8 studies conducted under subsection (a), the Administrator,
9 after consultation with appropriate Federal, State, and
10 local officials, including local health officials, shall issue,
11 within 5 years after the date of the enactment of this Act
12 (and review and revise from time to time thereafter, but
13 in no event less than once every 5 years) revised water
14 quality criteria for pathogens in coastal recreation waters
15 that are harmful to human health, including a revised list
16 of indicators and testing methods.

17 **SEC. 5. COASTAL BEACH WATER QUALITY MONITORING.**

18 Title IV of the Federal Water Pollution Control Act
19 (33 U.S.C. 1341–1345) is amended by adding at the end
20 thereof the following new section:

21 **“SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.**

22 “(a) MONITORING.—Within 18 months after the date
23 of enactment of this section, the Administrator shall pub-
24 lish and revise regulations requiring monitoring of, and
25 specifying available methods to be used by States to mon-

1 itor, coastal recreation waters at beaches open for use by
2 the public for compliance with applicable water quality cri-
3 teria for those waters and protection of the public safety.
4 Monitoring requirements established pursuant to this sub-
5 section shall, at a minimum—

6 “(1) specify the frequency of monitoring based
7 on the periods of recreational use of such waters;

8 “(2) specify the frequency of monitoring based
9 on the extent and degree of use during such periods;

10 “(3) specify the frequency and location of mon-
11 itoring based on the proximity of coastal recreation
12 waters to known or identified point and nonpoint
13 sources of pollution and in relation to storm events;

14 “(4) specify methods for detecting levels of
15 pathogens that are harmful to human health and for
16 identifying short-term increases in pathogens that
17 are harmful to human health in coastal recreation
18 waters, including in relation to storm events; and

19 “(5) specify the conditions and procedures
20 under which discrete areas of coastal recreation wa-
21 ters may be exempted by the Administrator from the
22 monitoring requirements of this subsection, if the
23 Administrator determines that an exemption will not
24 impair—

1 “(A) compliance with the applicable water
2 quality criteria for those waters; and

3 “(B) protection of the public safety.

4 “(b) NOTIFICATION REQUIREMENTS.—Regulations
5 published pursuant to subsection (a) shall require States
6 to provide prompt notification to local governments and
7 the public of exceedance of applicable water quality cri-
8 teria for State coastal recreation waters or the immediate
9 likelihood of such an exceedance. Notification pursuant to
10 this subsection shall include, at a minimum—

11 “(1) prompt communication of the occurrence,
12 nature, and extent of such an exceedance, or the im-
13 mediate likelihood of such an exceedance based on
14 predictive models to a designated official of a local
15 government having jurisdiction over land adjoining
16 the coastal recreation waters for which an
17 exceedance is identified; and

18 “(2) posting of signs for the period during
19 which the exceedance continues, sufficient to give
20 notice to the public of an exceedance of applicable
21 water quality criteria for such waters and the poten-
22 tial risks associated with water contact activities in
23 such waters.

24 “(c) FLOATABLE MATERIALS MONITORING PROCE-
25 DURES.—The Administrator shall—

1 “(1) issue guidance on uniform assessment and
2 monitoring procedures for floatable materials in
3 coastal recreation waters; and

4 “(2) specify the conditions under which the
5 presence of floatable material shall constitute a
6 threat to public health and safety.

7 “(d) STATE IMPLEMENTATION.—A State must imple-
8 ment a monitoring program that conforms to the regula-
9 tions issued pursuant to subsection (a) not later than 3½
10 years after the date of the enactment of this section and
11 revise such program not later than 2 years following the
12 date of publication of revisions by the Administrator under
13 subsection (f).

14 “(e) DELEGATION OF RESPONSIBILITY.—Not later
15 than 18 months after the date of the enactment of this
16 section, the Administrator shall issue guidance for the del-
17 egation of State testing, monitoring, and posting programs
18 under this section to local government authorities. In the
19 case that such responsibilities are delegated by a State to
20 a local government authority, or have been delegated to
21 a local government authority before such date of enact-
22 ment, in a manner that, at a minimum, is consistent with
23 the guidance issued by the Administrator, State resources
24 shall be made available to the delegated authority for the
25 purpose of program implementation.

1 “(f) REVIEW AND REVISION OF REGULATIONS.—The
2 Administrator shall review and revise regulations pub-
3 lished pursuant to this section periodically, but in no event
4 less than once every 5 years.

5 “(g) DEFINITIONS.—In this section, the following
6 definitions apply:

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

12 “(2) FLOATABLE MATERIALS.—The term ‘float-
13 able materials’ means any foreign matter that may
14 float or remain suspended in the water column and
15 includes plastic, aluminum cans, wood, bottles, and
16 paper products.”.

17 **SEC. 6. REPORT TO CONGRESS.**

18 Not later than 4 years after the date of the enact-
19 ment of this Act, and periodically thereafter, the Adminis-
20 trator shall submit to Congress a report including—

21 (1) recommendations concerning the need for
22 additional water quality criteria and other actions
23 needed to improve the quality of coastal recreation
24 waters; and

1 (2) an evaluation of State efforts to implement
2 this Act, including the amendments made by this
3 Act.

4 **SEC. 7. GRANTS TO STATES.**

5 (a) GRANTS.—Subject to subsection (c), the Adminis-
6 trator may make grants to States for use in fulfilling re-
7 quirements established pursuant to section 3 of this Act
8 and section 406 of the Federal Water Pollution Control
9 Act.

10 (b) COST SHARING.—The total amount of grants to
11 a State under this section for a fiscal year shall not exceed
12 50 percent of the cost to the State of implementing re-
13 quirements established pursuant to section 3 of this Act
14 and section 406 of the Federal Water Pollution Control
15 Act.

16 (c) ELIGIBLE STATE.—After the last day of the 3½-
17 year period beginning on the date of the enactment of this
18 Act, the Administrator may make a grant to a State under
19 this section only if the State demonstrates to the satisfac-
20 tion of the Administrator that it is implementing its mon-
21 itoring and posting program under section 406 of the Fed-
22 eral Water Pollution Control Act.

23 **SEC. 8. DEFINITIONS.**

24 In this Act, the following definitions apply:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) COASTAL RECREATION WATERS.—The term
5 “coastal recreation waters” means Great Lakes and
6 marine coastal waters (including bays) used by the
7 public for swimming, bathing, surfing, or other simi-
8 lar body contact purposes.

9 (3) FLOATABLE MATERIALS.—The term “float-
10 able materials” means any foreign matter that may
11 float or remain suspended in the water column and
12 includes plastic, aluminum cans, wood, bottles, and
13 paper products.

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated to the Admin-
16 istrator—

17 (1) for use in making grants to States under
18 section 7 not more than \$4,500,000 for each of the
19 fiscal years 1998 through 2002; and

20 (2) for carrying out the other provisions of this
21 Act not more than \$1,500,000 for each of the fiscal
22 years 1998 through 2002.

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