

105TH CONGRESS
1ST SESSION

H. R. 2094

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 1997

Mr. PALLONE (for himself and Mr. BILBRAY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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—

8 (1) the Nation’s beaches are a valuable public
9 resource used for recreation by millions of people an-
10 nually;

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

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

5 (4) increased population has contributed to the
6 decline in the environmental quality of coastal wa-
7 ters;

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

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

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

19 (8) while the adoption of such criteria will en-
20 hance public health and safety, exceedances of such
21 criteria should be addressed, where feasible, as part
22 of a watershed approach to effectively identify and
23 eliminate sources of pollution.

24 (b) PURPOSE.—The purpose of this Act is to require
25 uniform criteria and procedures for testing, monitoring,

1 and posting of coastal recreation waters at beaches open
2 for use by the public to protect public safety and improve
3 environmental quality.

4 **SEC. 3. ADOPTION OF COASTAL RECREATIONAL WATER**
5 **QUALITY CRITERIA BY STATES.**

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

21 (b) FAILURE OF STATES TO ADOPT.—If a State has
22 not complied with subsection (a) by the last day of the
23 3½-year period beginning on the date of the enactment
24 of this Act, the water quality criteria issued by the Admin-
25 istrator under section 304(a)(1) of the Federal Water Pol-

1 lution Control Act shall become applicable as the water
2 quality criteria for coastal recreational waters for the
3 State, and shall be deemed to have been promulgated by
4 the Administrator pursuant to section 303(c)(4).

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

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

15 (1) a more complete list of potential health
16 risks, including effects to the upper respiratory sys-
17 tem;

18 (2) better indicators for directly detecting or
19 predicting in coastal recreational waters the presence
20 of pathogens which are harmful to human health;
21 and

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

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

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

12 Title IV of the Federal Water Pollution Control Act
13 (33 U.S.C. 1341–1345) is amended by adding at the end
14 thereof the following new section:

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

16 “(a) MONITORING.—Within 18 months after the date
17 of enactment of this section, the Administrator shall pub-
18 lish and revise regulations requiring monitoring of, and
19 specifying available methods to be used by States to mon-
20 itor, coastal recreation waters at beaches open for use by
21 the public for compliance with applicable water quality cri-
22 teria for those waters and protection of the public safety.
23 Monitoring requirements established pursuant to this sub-
24 section shall, at a minimum—

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

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

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

9 “(4) specify methods for detecting levels of
10 pathogens that are harmful to human health and for
11 identifying short-term increases in pathogens that
12 are harmful to human health in coastal recreation
13 waters, including in relation to storm events; and

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

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

22 “(B) protection of the public safety.

23 “(b) NOTIFICATION REQUIREMENTS.—Regulations
24 published pursuant to subsection (a) shall require States
25 to provide prompt notification to local governments and

1 the public of exceedance of applicable water quality cri-
2 teria for State coastal recreation waters or the immediate
3 likelihood of such an exceedance. Notification pursuant to
4 this subsection shall include, at a minimum—

5 “(1) prompt communication of the occurrence,
6 nature, and extent of such an exceedance, or the im-
7 mediate likelihood of such an exceedance based on
8 predictive models to a designated official of a local
9 government having jurisdiction over land adjoining
10 the coastal recreation waters for which an
11 exceedance is identified; and

12 “(2) posting of signs for the period during
13 which the exceedance continues, sufficient to give
14 notice to the public of an exceedance of applicable
15 water quality criteria for such waters and the poten-
16 tial risks associated with water contact activities in
17 such waters.

18 “(c) FLOATABLE MATERIALS MONITORING PROCE-
19 DURES.—The Administrator shall—

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

23 “(2) specify the conditions under which the
24 presence of floatable material shall constitute a
25 threat to public health and safety.

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

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

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

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

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

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

13 **SEC. 6. REPORT TO CONGRESS.**

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

17 (1) recommendations concerning the need for
18 additional water quality criteria and other actions
19 needed to improve the quality of coastal recreation
20 waters; and

21 (2) an evaluation of State efforts to implement
22 this Act, including the amendments made by this
23 Act.

1 **SEC. 7. GRANTS TO STATES.**

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

7 (b) COST SHARING.—The total amount of grants to
8 a State under this section for a fiscal year shall not exceed
9 50 percent of the cost to the State of implementing re-
10 quirements established pursuant to section 3 of this Act
11 and section 406 of the Federal Water Pollution Control
12 Act.

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

20 **SEC. 8. DEFINITIONS.**

21 In this Act, the following definitions apply:

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

25 (2) COASTAL RECREATION WATERS.—The term
26 “coastal recreation waters” means Great Lakes and

1 marine coastal waters (including bays) used by the
2 public for swimming, bathing, surfing, or other simi-
3 lar body contact purposes.

4 (3) FLOATABLE MATERIALS.—The term “float-
5 able materials” means any foreign matter that may
6 float or remain suspended in the water column and
7 includes plastic, aluminum cans, wood, bottles, and
8 paper products.

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

10 There is authorized to be appropriated to the Admin-
11 istrator—

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

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

○