

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.

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## 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

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## 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-

itor, coastal recreation waters at beaches open for use by the public for compliance with applicable water quality criteria for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

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

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

“(3) specify the frequency and location of monitoring based on the proximity of coastal recreation waters to known or identified point and nonpoint sources of pollution and in relation to storm events;

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

“(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not 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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