

Calendar No. 871

110TH CONGRESS
2D SESSION**S. 2844****[Report No. 110–414]**

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, Mr. WARNER, Mr. KERRY, Mr. DURBIN, Mr. LIEBERMAN, Mr. CARDIN, Ms. STABENOW, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

JULY 10 (legislative day, JULY 9), 2008

Reported by Mrs. BOXER, with amendments

[Insert the part printed in *italic*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Beach Protection Act
3 of 2008”.

4 **SEC. 2. BEACHWATER POLLUTION SOURCE IDENTIFICA-**
5 **TION AND PREVENTION.**

6 (a) IN GENERAL.—Section 406 of the Federal Water
7 Pollution Control Act (33 U.S.C. 1346) is amended in
8 each of subsections (b), (c), (d), (g), and (h) by striking
9 “monitoring and notification” each place it appears and
10 inserting “monitoring, public notification, source tracking,
11 sanitary surveys, and prevention efforts to address the
12 identified sources of beachwater pollution”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
14 406(i) of the Federal Water Pollution Control Act (33
15 U.S.C. 1346(i)) is amended by striking “\$30,000,000 for
16 each of fiscal years 2001 through 2005” and inserting
17 “\$60,000,000 for each of fiscal years 2008 through 2013,
18 of which—

19 “(1) up to 10 percent of the initial \$10,000,000
20 made available for a fiscal year, at the direction of
21 the States, may be used to remediate problems de-
22 tected through beachwater monitoring and source
23 identification programs funded, in whole or in part,
24 by the Beaches Environmental Assessment and
25 Coastal Health Act of 2000 (Public Law 106–284;

1 114 Stat. 870), the Beach Protection Act of 2008,
 2 or an amendment made by either of those Acts;

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

7 “(3) up to 50 percent of the remaining
 8 \$45,000,000 made available for the fiscal year, at
 9 the direction of the States, may be used to remediate
 10 those problems.”.

11 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
 12 **MENT AND COASTAL HEALTH ACT.**

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

16 **SEC. 4. STATE REPORTS.**

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

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

23 (a) CONTENTS OF STATE AND LOCAL GOVERNMENT
 24 PROGRAMS.—Section 406(c)(4)(A) of the Federal Water
 25 Pollution Control Act (33 U.S.C. 1346(c)(4)(A)) is

1 amended by inserting “, including the use of a rapid test-
 2 ing method after the last day of the 1-year period fol-
 3 lowing the date of approval of the rapid testing method
 4 by the Administrator” before the semicolon at the end.

5 (b) REVISED CRITERIA.—Section 304(a)(9) of the
 6 Federal Water Pollution Control Act (33 U.S.C.
 7 1314(a)(9)) is amended—

8 (1) in subparagraph (A)—

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

10 and

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

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

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

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

21 “(25) RAPID TESTING METHOD.—The term
 22 ‘rapid testing method’ means a method of testing for
 23 which results are available within 2 hours *after com-*
 24 *mencement of the rapid testing method.*”.

1 **SEC. 6. PROMPT COMMUNICATION WITH STATE ENVIRON-**
2 **MENTAL AGENCIES.**

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

5 (1) in the matter preceding subparagraph (A),
6 by striking “prompt communication” and inserting
7 “communication within 24 hours of the receipt of
8 the results of a water quality sample”;

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

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

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

14 “(C) all agencies of the State government
15 with authority to require the prevention or
16 treatment of the sources of beachwater pollu-
17 tion;”.

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

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

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

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

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

1 “(8) measures to develop and implement a
 2 beachwater pollution source identification and track-
 3 ing program for the coastal recreation waters that
 4 are not meeting applicable water quality standards
 5 for pathogens;

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

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

19 **SEC. 8. COMPLIANCE REVIEW.**

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

22 (1) by redesignating paragraphs (1) and (2) as
 23 subparagraphs (A) and (B), respectively, and indent-
 24 ing the subparagraphs appropriately;

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

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

4 “(2) COMPLIANCE REVIEW.—On or before July
 5 31 of each calendar year beginning after the date of
 6 enactment of this paragraph, the Administrator
 7 shall—

8 “(A) prepare a written assessment of com-
 9 pliance with all statutory and regulatory re-
 10 quirements of this section for each State and
 11 local government, and of compliance with condi-
 12 tions of each grant made under this section to
 13 a State or local government, *including compli-*
 14 *ance with any requirement or condition under*
 15 *subsection (a)(2) or (c);*

16 “(B) notify the State or local government
 17 of the assessment; and

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

21 “(3) CORRECTIVE ACTION.—

22 “(A) IN GENERAL.—Any State or local
 23 government that the Administrator notifies
 24 under paragraph (2) that the State or local gov-
 25 ernment is not in compliance with any require-

1 ment or grant condition described in paragraph
2 (2) shall take such action as is necessary to
3 comply with the requirement or condition by
4 not later than 1 year after the date of the noti-
5 fication.

6 “(B) NONCOMPLIANCE.—If the State or
7 local government is not in compliance with such
8 a requirement or condition by the date that is
9 1 year after the deadline specified in subpara-
10 graph (A), any grants made under subsection
11 (b) to the State or local government, after the
12 last day of the 1-year period and while the
13 State or local government is not in compliance
14 with all requirements and grant conditions de-
15 scribed in paragraph (2), shall require a Fed-
16 eral share of not to exceed 50 percent.

17 “(4) GAO REVIEW.—Not later than December
18 31 of the third calendar year beginning after the
19 date of enactment of this paragraph, the Comp-
20 troller General of the United States shall—

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

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

3 **SEC. 9. STUDY OF GRANT DISTRIBUTION FORMULA.**

4 (a) STUDY.—Not later than 30 days after the date
5 of enactment of this Act, the Administrator of the Envi-
6 ronmental Protection Agency (referred to in this section
7 as the “Administrator”) shall commence a study of the
8 formula for the distribution of grants under section 406
9 of the Federal Water Pollution Control Act (33 U.S.C.
10 1346) for the purpose of identifying potential revisions of
11 that formula.

12 (b) REQUIREMENTS.—In conducting the study, the
13 Administrator shall—

14 (1) consider the emphasis and valuation placed
15 on length of beach season, including any findings
16 made by the Government Accountability Office with
17 respect to that emphasis and valuation; and

18 (2) consult with appropriate Federal, State, and
19 local agencies.

20 (c) REPORT AND REVISION.—Not later than 1 year
21 after the date of enactment of this Act, the Administrator
22 shall—

23 (1) submit to the Committee on Environment
24 and Public Works of the Senate and the Committee
25 on Transportation and Infrastructure of the House

1 of Representatives a report on the results of the
2 study, including any recommendations for revisions
3 of the distribution formula referred to in subsection
4 (a); and
5 (2) revise the distribution formula referred to in
6 subsection (a) in accordance with those rec-
7 ommendations.

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