

115TH CONGRESS
1ST SESSION

S. 1622

To amend the Federal Water Pollution Control Act relating to beach monitoring, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2017

Mr. MENENDEZ 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 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Beach Act of 2017”.

5 **SEC. 2. WATER POLLUTION SOURCE IDENTIFICATION.**

6 (a) MONITORING PROTOCOLS.—Section 406(a)(1)(A)
7 of the Federal Water Pollution Control Act (33 U.S.C.
8 1346(a)(1)(A)) is amended by striking “methods for mon-
9 itoring” and inserting “protocols for monitoring that are
10 most likely to detect pathogenic contamination”.

1 (b) SOURCE TRACKING.—Section 406(b) of such Act
 2 (33 U.S.C. 1346(b)) is amended by adding at the end the
 3 following:

4 “(5) CONTENTS OF MONITORING AND NOTIFI-
 5 CATION PROGRAMS.—For the purposes of this sec-
 6 tion, a program for monitoring, assessment, and no-
 7 tification shall include, consistent with performance
 8 criteria published by the Administrator under sub-
 9 section (a), monitoring, public notification, storm
 10 event testing, source tracking, and sanitary surveys,
 11 and may include prevention efforts, not already
 12 funded under this Act to address identified sources
 13 of contamination by pathogens and pathogen indica-
 14 tors in coastal recreation waters adjacent to beaches
 15 or similar points of access that are used by the pub-
 16 lic.”.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
 18 406(i) of such Act (33 U.S.C. 1346(i)) is amended by
 19 striking “2001 through 2005” and inserting “2017
 20 through 2021”.

21 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
 22 **MENT AND COASTAL HEALTH ACT.**

23 Section 8 of the Beaches Environmental Assessment
 24 and Coastal Health Act of 2000 (Public Law 106–284)
 25 is amended by striking “2005” and inserting “2021”.

1 **SEC. 4. STATE REPORTS.**

2 Section 406(b)(3)(A)(ii) of the Federal Water Pollu-
 3 tion Control Act (33 U.S.C. 1346(b)(3)(A)(ii)) is amended
 4 by striking “public” and inserting “public and all environ-
 5 mental agencies of the State with authority to prevent or
 6 treat sources of pathogenic contamination in coastal recre-
 7 ation waters”.

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

9 (a) CONTENTS OF STATE AND LOCAL GOVERNMENT
 10 PROGRAMS.—Section 406(c)(4)(A) of the Federal Water
 11 Pollution Control Act (33 U.S.C. 1346(c)(4)(A)) is
 12 amended by striking “methods” and inserting “methods,
 13 including a rapid testing method after the last day of the
 14 one-year period after the date of validation of that rapid
 15 testing method by the Administrator,”.

16 (b) REVISED CRITERIA.—Section 304(a)(9)(A) of
 17 such Act (33 U.S.C. 1314(a)(9)(A)) is amended by strik-
 18 ing “methods, as appropriate” and inserting “methods, in-
 19 cluding rapid testing methods”.

20 (c) VALIDATION AND USE OF RAPID TESTING METH-
 21 ODS.—

22 (1) VALIDATION OF RAPID TESTING METH-
 23 ODS.—Not later than 6 months after the date of en-
 24 actment of this Act, the Administrator of the Envi-
 25 ronmental Protection Agency (in this Act referred to
 26 as the “Administrator”) shall complete an evaluation

1 and validation of a rapid testing method for the
2 water quality criteria and standards for pathogens
3 and pathogen indicators described in section
4 304(a)(9)(A) of the Federal Water Pollution Control
5 Act (33 U.S.C. 1314(a)(9)(A)).

6 (2) GUIDANCE FOR USE OF RAPID TESTING
7 METHODS.—

8 (A) IN GENERAL.—Not later than 180
9 days after completion of the validation under
10 paragraph (1), after providing notice and an
11 opportunity for public comment, the Adminis-
12 trator shall publish guidance for the use at
13 coastal recreation waters adjacent to beaches or
14 similar points of access that are used by the
15 public of a rapid testing method that will en-
16 hance the protection of public health and safety
17 through rapid public notification of any exceed-
18 ance of applicable water quality standards for
19 pathogens and pathogen indicators.

20 (B) PRIORITIZATION.—In developing such
21 guidance, the Administrator shall require the
22 use of a rapid testing method at those beaches
23 or similar points of access that are the most
24 used by the public.

1 (d) DEFINITION.—Section 502 of such Act (33
 2 U.S.C. 1362) is amended by adding at the end the fol-
 3 lowing:

4 “(27) RAPID TESTING METHOD.—The term
 5 ‘rapid testing method’ means a method of testing
 6 the water quality of coastal recreation waters for
 7 which results are available as soon as practicable
 8 and not more than 4 hours after receipt of the appli-
 9 cable sample by the testing facility.”.

10 (e) REVISIONS TO RAPID TESTING METHODS.—

11 (1) IN GENERAL.—Upon completion of the vali-
 12 dation required under subsection (c)(1), and every 5
 13 years thereafter, the Administrator shall identify
 14 and review potential rapid testing methods for exist-
 15 ing water quality criteria for pathogens and patho-
 16 gen indicators for coastal recreation waters.

17 (2) REVISIONS TO RAPID TESTING METHODS.—

18 If a rapid testing method identified under paragraph
 19 (1) will make results available in less time and im-
 20 prove the accuracy and reproducibility of results
 21 when compared to the existing rapid testing method,
 22 the Administrator shall complete an evaluation and
 23 validation of the rapid testing method as expedi-
 24 tiously as practicable.

(3) REPORTING REQUIREMENT.—Upon completion of the review required under paragraph (1), the Administrator shall publish in the Federal Register the results of the review, including information on any potential rapid testing method proposed for evaluation and validation under paragraph (2).

(4) DECLARATION OF GOALS FOR RAPID TESTING METHODS.—It is a national goal that by 2019, a rapid testing method for testing water quality of coastal recreation waters be developed that can produce accurate and reproducible results in not more than 2 hours after receipt of the applicable sample.

SEC. 6. NOTIFICATION OF FEDERAL, STATE, AND LOCAL AGENCIES.

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

(1) in paragraph (5), in the matter preceding subparagraph (A), by striking “prompt communication” and inserting “communication, within 2 hours of the receipt of the results of a water quality sample,”;

(2) by striking paragraph (5)(A) and inserting the following:

“(A) in the case of—

1 “(i) any State in which the Adminis-
 2 trator is administering the program under
 3 section 402, the Administrator, in such
 4 form as the Administrator determines to
 5 be appropriate; and

6 “(ii) any State other than a State to
 7 which clause (i) applies, all agencies of the
 8 State government with authority to require
 9 the prevention or treatment of the sources
 10 of coastal recreation water pollution; and”;

11 (3) by redesignating paragraphs (6) and (7) as
 12 paragraphs (7) and (8), respectively; and

13 (4) by inserting after paragraph (5) the fol-
 14 lowing:

15 “(6) measures for an annual report to the Ad-
 16 ministrator, in such form as the Administrator de-
 17 termines appropriate, on the occurrence, nature, lo-
 18 cation, pollutants involved, and extent of any exceed-
 19 ance of applicable water quality standards for patho-
 20 gens and pathogen indicators;”.

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

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

24 (1) in paragraph (7) (as redesignated by section
 25 6(3) of this Act)—

1 (A) by striking “the posting” and inserting
 2 “the immediate posting”; and

3 (B) by striking “and” at the end;

4 (2) by striking the period at the end of para-
 5 graph (8) (as redesignated by section 6(3) of this
 6 Act) and inserting a semicolon; and

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

8 “(9) the availability of a geographic information
 9 system database that such State or local government
 10 program shall use to inform the public about coastal
 11 recreation waters and that—

12 “(A) is publicly accessible and searchable
 13 on the Internet;

14 “(B) is organized by beach or similar point
 15 of access;

16 “(C) identifies applicable water quality
 17 standards, monitoring protocols, sampling plans
 18 and results, and the number and cause of coast-
 19 al recreation water closures and advisory days;
 20 and

21 “(D) is updated within 12 hours of the
 22 availability of information indicating the pres-
 23 ence of pathogens or pathogen indicators; and

24 “(10) measures to ensure that closures or
 25 advisories are made or issued within 2 hours after

1 the receipt of the results of a water quality sample
 2 that exceeds applicable water quality standards for
 3 pathogens and pathogen indicators.”.

4 **SEC. 8. COMPLIANCE REVIEW.**

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

7 (1) by redesignating paragraphs (1) and (2) as
 8 subparagraphs (A) and (B), respectively;

9 (2) by moving such subparagraphs 2 ems to the
 10 right;

11 (3) by striking “In the” and inserting the fol-
 12 lowing:

13 “(1) IN GENERAL.—In the”; and

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

15 “(2) COMPLIANCE REVIEW.—On or before July
 16 31 of each calendar year beginning after the date of
 17 enactment of this paragraph, the Administrator
 18 shall—

19 “(A) prepare a written assessment of com-
 20 pliance with all statutory and regulatory re-
 21 quirements of this section for each State and
 22 local government and of compliance with condi-
 23 tions of each grant made under this section to
 24 a State or local government;

1 “(B) notify the State or local government
2 of such assessment; and

3 “(C) make each of the assessments avail-
4 able to the public in a searchable database on
5 the Internet on or before December 31 of such
6 calendar year.

7 “(3) CORRECTIVE ACTION.—If a State or local
8 government that the Administrator notifies under
9 paragraph (2) is not in compliance with any require-
10 ment or grant condition described in paragraph (2)
11 fails to take such action as may be necessary to
12 comply with such requirement or condition within
13 one year after the date of notification, any grants
14 made under subsection (b) to the State or local gov-
15 ernment, after the last day of such one-year period
16 and while the State or local government is not in
17 compliance with all requirements and grant condi-
18 tions described in paragraph (2), shall have a Fed-
19 eral share of not to exceed 50 percent.

20 “(4) GAO REVIEW.—Not later than December
21 31 of the third calendar year beginning after the
22 date of enactment of this paragraph, the Comp-
23 troller General shall conduct a review of the activi-
24 ties of the Administrator under paragraphs (2) and
25 (3) during the first and second calendar years begin-

1 ning after such date of enactment and submit to
2 Congress a report on the results of such review.”.

3 **SEC. 9. PUBLICATION OF COASTAL RECREATION WATERS**
4 **PATHOGEN LIST.**

5 Section 304(a)(9) of the Federal Water Pollution
6 Control Act (33 U.S.C. 1314(a)(9)) is amended by adding
7 at the end the following:

8 “(C) PUBLICATION OF PATHOGEN AND
9 PATHOGEN INDICATOR LIST.—Upon publication
10 of the new or revised water quality criteria
11 under subparagraph (A), the Administrator
12 shall publish in the Federal Register a list of all
13 pathogens and pathogen indicators studied
14 under section 104(v).”.

15 **SEC. 10. ADOPTION OF NEW OR REVISED CRITERIA AND**
16 **STANDARDS.**

17 Section 303(i) of the Federal Water Pollution Control
18 Act (33 U.S.C. 1313(i)) is amended—

19 (1) in paragraph (1)(A), by striking “water
20 quality criteria and standards” and inserting “the
21 most protective water quality criteria and standards
22 practicable”; and

23 (2) in paragraph (2)(A), by striking “paragraph
24 (1)(A)” each place it appears and inserting “para-
25 graph (1)”.

1 **SEC. 11. NATIONAL LIST OF BEACHES.**

2 Section 406(g) of the Federal Water Pollution Con-
3 trol Act (33 U.S.C. 1346(g)) is amended—

4 (1) in paragraph (1), by inserting “, regardless
5 of the presence of a lifeguard,” after “that are used
6 by the public”; and

7 (2) in paragraph (3), by striking “The Adminis-
8 trator” and all that follows through the period and
9 inserting “Not later than 12 months after the date
10 of the enactment of the Beach Act of 2017, and bi-
11 ennially thereafter, the Administrator shall update
12 the list described in paragraph (1).”.

13 **SEC. 12. IMPACT OF CLIMATE CHANGE ON PATHOGENIC**
14 **CONTAMINATION OF COASTAL RECREATION**
15 **WATERS.**

16 (a) STUDY.—The Administrator shall conduct a
17 study on the long-term impact of climate change on patho-
18 genic contamination of coastal recreation waters.

19 (b) REPORT.—

20 (1) IN GENERAL.—Not later than one year
21 after the date of enactment of this Act, the Adminis-
22 trator shall submit to Congress a report on the re-
23 sults of the study conducted under subsection (a).

24 (2) INFORMATION ON POTENTIAL CONTAMINA-
25 TION IMPACTS.—The report shall include informa-
26 tion on the potential impacts of pathogenic contami-

1 nation on ground and surface water resources as
2 well as public and ecosystem health in coastal com-
3 munities.

4 (3) FEDERAL ACTIONS.—The report shall high-
5 light necessary Federal actions to help advance the
6 availability of information and tools to assess and
7 mitigate these effects in order to protect public and
8 ecosystem health.

9 (4) CONSULTATION.—In developing the report,
10 the Administrator shall work in consultation with
11 agencies active in the development of the National
12 Water Quality Monitoring Network and the imple-
13 mentation of the Ocean Research Priorities Plan and
14 Implementation Strategy.

15 **SEC. 13. IMPACT OF EXCESS NUTRIENTS ON COASTAL**
16 **RECREATION WATERS.**

17 (a) STUDY.—The Administrator shall conduct a
18 study to review the available scientific information per-
19 taining to the impacts of excess nutrients on coastal recre-
20 ation waters.

21 (b) REPORT.—

22 (1) IN GENERAL.—Not later than one year
23 after the date of enactment of this Act, the Adminis-
24 trator shall transmit to the Committee on Transpor-
25 tation and Infrastructure of the House of Represent-

1 atives and the Committee on Environment and Pub-
2 lic Works of the Senate a report on the results of
3 the study conducted under subsection (a).

4 (2) IMPACTS.—Such report shall include infor-
5 mation on any adverse impacts of excess nutrients
6 on coastal recreation waters, including adverse im-
7 pacts caused by algal blooms resulting from excess
8 nutrients.

9 (3) RECOMMENDATIONS.—Such report shall in-
10 clude recommendations for action to address adverse
11 impacts of excess nutrients and algal blooms on
12 coastal recreation waters, including the establish-
13 ment and implementation of numeric water quality
14 criteria for nutrients.

15 (4) CONSULTATION.—In developing such re-
16 port, the Administrator shall consult with the heads
17 of other appropriate Federal agencies (including the
18 National Oceanic and Atmospheric Administration),
19 States, and local government entities.

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