

In the Senate of the United States,

September 21, 2000.

Resolved, That the bill from the House of Representatives (H.R. 999) entitled “An Act to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Beaches Environmental*

3 *Assessment and Coastal Health Act of 2000”.*

1 **SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUAL-**
2 **ITY CRITERIA AND STANDARDS BY STATES.**

3 *Section 303 of the Federal Water Pollution Control Act*
4 *(33 U.S.C. 1313) is amended by adding at the end the fol-*
5 *lowing:*

6 “(i) *COASTAL RECREATION WATER QUALITY CRI-*
7 *TERIA.*—

8 “(1) *ADOPTION BY STATES.*—

9 “(A) *INITIAL CRITERIA AND STANDARDS.*—
10 *Not later than 42 months after the date of enact-*
11 *ment of this subsection, each State having coast-*
12 *al recreation waters shall adopt and submit to*
13 *the Administrator water quality criteria and*
14 *standards for the coastal recreation waters of the*
15 *State for those pathogens and pathogen indica-*
16 *tors for which the Administrator has published*
17 *criteria under section 304(a).*

18 “(B) *NEW OR REVISED CRITERIA AND*
19 *STANDARDS.*—*Not later than 36 months after the*
20 *date of publication by the Administrator of new*
21 *or revised water quality criteria under section*
22 *304(a)(9), each State having coastal recreation*
23 *waters shall adopt and submit to the Adminis-*
24 *trator new or revised water quality standards for*
25 *the coastal recreation waters of the State for all*
26 *pathogens and pathogen indicators to which the*

1 *new or revised water quality criteria are appli-*
2 *cable.*

3 “(2) *FAILURE OF STATES TO ADOPT.*—

4 “(A) *IN GENERAL.*—*If a State fails to adopt*
5 *water quality criteria and standards in accord-*
6 *ance with paragraph (1)(A) that are as protec-*
7 *tive of human health as the criteria for patho-*
8 *gens and pathogen indicators for coastal recre-*
9 *ation waters published by the Administrator, the*
10 *Administrator shall promptly propose regula-*
11 *tions for the State setting forth revised or new*
12 *water quality standards for pathogens and*
13 *pathogen indicators described in paragraph*
14 *(1)(A) for coastal recreation waters of the State.*

15 “(B) *EXCEPTION.*—*If the Administrator*
16 *proposes regulations for a State described in sub-*
17 *paragraph (A) under subsection (c)(4)(B), the*
18 *Administrator shall publish any revised or new*
19 *standard under this subsection not later than 42*
20 *months after the date of enactment of this sub-*
21 *section.*

22 “(3) *APPLICABILITY.*—*Except as expressly pro-*
23 *vided by this subsection, the requirements and proce-*
24 *dures of subsection (c) apply to this subsection, in-*

1 *cluding the requirement in subsection (c)(2)(A) that*
2 *the criteria protect public health and welfare.”.*

3 **SEC. 3. REVISIONS TO WATER QUALITY CRITERIA.**

4 *(a) STUDIES CONCERNING PATHOGEN INDICATORS IN*
5 *COASTAL RECREATION WATERS.—Section 104 of the Fed-*
6 *eral Water Pollution Control Act (33 U.S.C. 1254) is*
7 *amended by adding at the end the following:*

8 *“(v) STUDIES CONCERNING PATHOGEN INDICATORS IN*
9 *COASTAL RECREATION WATERS.—Not later than 18*
10 *months after the date of enactment of this subsection, after*
11 *consultation and in cooperation with appropriate Federal,*
12 *State, tribal, and local officials (including local health offi-*
13 *cial), the Administrator shall initiate, and, not later than*
14 *3 years after the date of enactment of this subsection, shall*
15 *complete, in cooperation with the heads of other Federal*
16 *agencies, studies to provide additional information for use*
17 *in developing—*

18 *“(1) an assessment of potential human health*
19 *risks resulting from exposure to pathogens in coastal*
20 *recreation waters, including nongastrointestinal ef-*
21 *fects;*

22 *“(2) appropriate and effective indicators for im-*
23 *proving detection in a timely manner in coastal*
24 *recreation waters of the presence of pathogens that are*
25 *harmful to human health;*

1 “(3) appropriate, accurate, expeditious, and cost-
2 effective methods (including predictive models) for de-
3 tecting in a timely manner in coastal recreation wa-
4 ters the presence of pathogens that are harmful to
5 human health; and

6 “(4) guidance for State application of the cri-
7 teria for pathogens and pathogen indicators to be
8 published under section 304(a)(9) to account for the
9 diversity of geographic and aquatic conditions.”.

10 (b) *REVISED CRITERIA*.—Section 304(a) of the Federal
11 *Water Pollution Control Act (33 U.S.C. 1314(a))* is amend-
12 *ed by adding at the end the following:*

13 “(9) *REVISED CRITERIA FOR COASTAL RECRE-*
14 *ATION WATERS*.—

15 “(A) *IN GENERAL*.—Not later than 5 years
16 after the date of enactment of this paragraph,
17 after consultation and in cooperation with ap-
18 propriate Federal, State, tribal, and local offi-
19 cials (including local health officials), the Ad-
20 ministrators shall publish new or revised water
21 quality criteria for pathogens and pathogen in-
22 dicators (including a revised list of testing meth-
23 ods, as appropriate), based on the results of the
24 studies conducted under section 104(v), for the

1 *purpose of protecting human health in coastal*
2 *recreation waters.*

3 “(B) *REVIEWS.*—*Not later than the date*
4 *that is 5 years after the date of publication of*
5 *water quality criteria under this paragraph, and*
6 *at least once every 5 years thereafter, the Admin-*
7 *istrator shall review and, as necessary, revise the*
8 *water quality criteria.”*

9 **SEC. 4. COASTAL RECREATION WATER QUALITY MONI-**
10 **TORING AND NOTIFICATION.**

11 *Title IV of the Federal Water Pollution Control Act*
12 *(33 U.S.C. 1341 et seq.) is amended by adding at the end*
13 *the following:*

14 **“SEC. 406. COASTAL RECREATION WATER QUALITY MONI-**
15 **TORING AND NOTIFICATION.**

16 “(a) *MONITORING AND NOTIFICATION.*—

17 “(1) *IN GENERAL.*—*Not later than 18 months*
18 *after the date of enactment of this section, after con-*
19 *sultation and in cooperation with appropriate Fed-*
20 *eral, State, tribal, and local officials (including local*
21 *health officials), and after providing public notice*
22 *and an opportunity for comment, the Administrator*
23 *shall publish performance criteria for—*

24 “(A) *monitoring and assessment (including*
25 *specifying available methods for monitoring) of*

1 *coastal recreation waters adjacent to beaches or*
2 *similar points of access that are used by the pub-*
3 *lic for attainment of applicable water quality*
4 *standards for pathogens and pathogen indica-*
5 *tors; and*

6 *“(B) the prompt notification of the public,*
7 *local governments, and the Administrator of any*
8 *exceeding of or likelihood of exceeding applicable*
9 *water quality standards for coastal recreation*
10 *waters described in subparagraph (A).*

11 *“(2) LEVEL OF PROTECTION.—The performance*
12 *criteria referred to in paragraph (1) shall provide*
13 *that the activities described in subparagraphs (A) and*
14 *(B) of that paragraph shall be carried out as nec-*
15 *essary for the protection of public health and safety.*

16 *“(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION*
17 *GRANTS.—*

18 *“(1) IN GENERAL.—The Administrator may*
19 *make grants to States and local governments to de-*
20 *velop and implement programs for monitoring and*
21 *notification for coastal recreation waters adjacent to*
22 *beaches or similar points of access that are used by*
23 *the public.*

24 *“(2) LIMITATIONS.—*

1 “(A) *IN GENERAL.*—*The Administrator*
2 *may award a grant to a State or a local govern-*
3 *ment to implement a monitoring and notifica-*
4 *tion program if—*

5 “(i) *the program is consistent with the*
6 *performance criteria published by the Ad-*
7 *ministrator under subsection (a);*

8 “(ii) *the State or local government*
9 *prioritizes the use of grant funds for par-*
10 *ticular coastal recreation waters based on*
11 *the use of the water and the risk to human*
12 *health presented by pathogens or pathogen*
13 *indicators;*

14 “(iii) *the State or local government*
15 *makes available to the Administrator the*
16 *factors used to prioritize the use of funds*
17 *under clause (ii);*

18 “(iv) *the State or local government*
19 *provides a list of discrete areas of coastal*
20 *recreation waters that are subject to the*
21 *program for monitoring and notification for*
22 *which the grant is provided that specifies*
23 *any coastal recreation waters for which fis-*
24 *cal constraints will prevent consistency with*

1 *the performance criteria under subsection*
2 *(a); and*

3 “*(v) the public is provided an oppor-*
4 *tunity to review the program through a*
5 *process that provides for public notice and*
6 *an opportunity for comment.*

7 “(B) *GRANTS TO LOCAL GOVERNMENTS.—*
8 *The Administrator may make a grant to a local*
9 *government under this subsection for implemen-*
10 *tation of a monitoring and notification program*
11 *only if, after the 1-year period beginning on the*
12 *date of publication of performance criteria under*
13 *subsection (a)(1), the Administrator determines*
14 *that the State is not implementing a program*
15 *that meets the requirements of this subsection, re-*
16 *gardless of whether the State has received a grant*
17 *under this subsection.*

18 “(3) *OTHER REQUIREMENTS.—*

19 “*(A) REPORT.—A State recipient of a grant*
20 *under this subsection shall submit to the Admin-*
21 *istrator, in such format and at such intervals as*
22 *the Administrator determines to be appropriate,*
23 *a report that describes—*

1 “(i) data collected as part of the pro-
2 gram for monitoring and notification as de-
3 scribed in subsection (c); and

4 “(ii) actions taken to notify the public
5 when water quality standards are exceeded.

6 “(B) DELEGATION.—A State recipient of a
7 grant under this subsection shall identify each
8 local government to which the State has dele-
9 gated or intends to delegate responsibility for im-
10 plementing a monitoring and notification pro-
11 gram consistent with the performance criteria
12 published under subsection (a) (including any
13 coastal recreation waters for which the authority
14 to implement a monitoring and notification pro-
15 gram would be subject to the delegation).

16 “(4) FEDERAL SHARE.—

17 “(A) IN GENERAL.—The Administrator,
18 through grants awarded under this section, may
19 pay up to 100 percent of the costs of developing
20 and implementing a program for monitoring
21 and notification under this subsection.

22 “(B) NON-FEDERAL SHARE.—The non-Fed-
23 eral share of the costs of developing and imple-
24 menting a monitoring and notification program
25 may be—

1 “(i) in an amount not to exceed 50
2 percent, as determined by the Administrator
3 in consultation with State, tribal, and local
4 government representatives; and

5 “(ii) provided in cash or in kind.

6 “(c) *CONTENT OF STATE AND LOCAL GOVERNMENT*
7 *PROGRAMS.*—As a condition of receipt of a grant under
8 subsection (b), a State or local government program for
9 monitoring and notification under this section shall
10 identify—

11 “(1) lists of coastal recreation waters in the
12 State, including coastal recreation waters adjacent to
13 beaches or similar points of access that are used by
14 the public;

15 “(2) in the case of a State program for moni-
16 toring and notification, the process by which the
17 State may delegate to local governments responsibility
18 for implementing the monitoring and notification
19 program;

20 “(3) the frequency and location of monitoring
21 and assessment of coastal recreation waters based
22 on—

23 “(A) the periods of recreational use of the
24 waters;

1 “(B) the nature and extent of use during
2 certain periods;

3 “(C) the proximity of the waters to known
4 point sources and nonpoint sources of pollution;
5 and

6 “(D) any effect of storm events on the wa-
7 ters;

8 “(4)(A) the methods to be used for detecting levels
9 of pathogens and pathogen indicators that are harm-
10 ful to human health; and

11 “(B) the assessment procedures for identifying
12 short-term increases in pathogens and pathogen indi-
13 cators that are harmful to human health in coastal
14 recreation waters (including increases in relation to
15 storm events);

16 “(5) measures for prompt communication of the
17 occurrence, nature, location, pollutants involved, and
18 extent of any exceeding of, or likelihood of exceeding,
19 applicable water quality standards for pathogens and
20 pathogen indicators to—

21 “(A) the Administrator, in such form as the
22 Administrator determines to be appropriate; and

23 “(B) a designated official of a local govern-
24 ment having jurisdiction over land adjoining the

1 *coastal recreation waters for which the failure to*
2 *meet applicable standards is identified;*

3 “(6) *measures for the posting of signs at beaches*
4 *or similar points of access, or functionally equivalent*
5 *communication measures that are sufficient to give*
6 *notice to the public that the coastal recreation waters*
7 *are not meeting or are not expected to meet applicable*
8 *water quality standards for pathogens and pathogen*
9 *indicators; and*

10 “(7) *measures that inform the public of the po-*
11 *tential risks associated with water contact activities*
12 *in the coastal recreation waters that do not meet ap-*
13 *plicable water quality standards.*

14 “(d) *FEDERAL AGENCY PROGRAMS.—Not later than 3*
15 *years after the date of enactment of this section, each Fed-*
16 *eral agency that has jurisdiction over coastal recreation wa-*
17 *ters adjacent to beaches or similar points of access that are*
18 *used by the public shall develop and implement, through*
19 *a process that provides for public notice and an opportunity*
20 *for comment, a monitoring and notification program for*
21 *the coastal recreation waters that—*

22 “(1) *protects the public health and safety;*

23 “(2) *is consistent with the performance criteria*
24 *published under subsection (a);*

1 “(3) includes a completed report on the informa-
2 tion specified in subsection (b)(3)(A), to be submitted
3 to the Administrator; and

4 “(4) addresses the matters specified in subsection
5 (c) .

6 “(e) DATABASE.—The Administrator shall establish,
7 maintain, and make available to the public by electronic
8 and other means a national coastal recreation water pollu-
9 tion occurrence database that provides—

10 “(1) the data reported to the Administrator
11 under subsections (b)(3)(A)(i) and (d)(3); and

12 “(2) other information concerning pathogens and
13 pathogen indicators in coastal recreation waters
14 that—

15 “(A) is made available to the Administrator
16 by a State or local government, from a coastal
17 water quality monitoring program of the State
18 or local government; and

19 “(B) the Administrator determines should
20 be included.

21 “(f) TECHNICAL ASSISTANCE FOR MONITORING
22 FLOATABLE MATERIAL.—The Administrator shall provide
23 technical assistance to States and local governments for the
24 development of assessment and monitoring procedures for

1 *floatable material to protect public health and safety in*
2 *coastal recreation waters.*

3 “(g) *LIST OF WATERS.*—

4 “(1) *IN GENERAL.*—*Beginning not later than 18*
5 *months after the date of publication of performance*
6 *criteria under subsection (a), based on information*
7 *made available to the Administrator, the Adminis-*
8 *trator shall identify, and maintain a list of, discrete*
9 *coastal recreation waters adjacent to beaches or simi-*
10 *lar points of access that are used by the public that—*

11 “(A) *specifies any waters described in this*
12 *paragraph that are subject to a monitoring and*
13 *notification program consistent with the per-*
14 *formance criteria established under subsection*
15 *(a); and*

16 “(B) *specifies any waters described in this*
17 *paragraph for which there is no monitoring and*
18 *notification program (including waters for which*
19 *fiscal constraints will prevent the State or the*
20 *Administrator from performing monitoring and*
21 *notification consistent with the performance cri-*
22 *teria established under subsection (a)).*

23 “(2) *AVAILABILITY.*—*The Administrator shall*
24 *make the list described in paragraph (1) available to*
25 *the public through—*

1 “(A) publication in the Federal Register;
2 and

3 “(B) electronic media.

4 “(3) UPDATES.—The Administrator shall update
5 the list described in paragraph (1) periodically as
6 new information becomes available.

7 “(h) EPA IMPLEMENTATION.—In the case of a State
8 that has no program for monitoring and notification that
9 is consistent with the performance criteria published under
10 subsection (a) after the last day of the 3-year period begin-
11 ning on the date on which the Administrator lists waters
12 in the State under subsection (g)(1)(B), the Administrator
13 shall conduct a monitoring and notification program for
14 the listed waters based on a priority ranking established
15 by the Administrator using funds appropriated for grants
16 under subsection (i)—

17 “(1) to conduct monitoring and notification; and

18 “(2) for related salaries, expenses, and travel.

19 “(i) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated for making grants under sub-
21 section (b), including implementation of monitoring and
22 notification programs by the Administrator under sub-
23 section (h), \$30,000,000 for each of fiscal years 2001
24 through 2005.”.

1 **SEC. 5. DEFINITIONS.**

2 *Section 502 of the Federal Water Pollution Control Act*
3 *(33 U.S.C. 1362) is amended by adding at the end the fol-*
4 *lowing:*

5 “(21) *COASTAL RECREATION WATERS.*—

6 “(A) *IN GENERAL.*—*The term ‘coastal recre-*
7 *ation waters’ means—*

8 “(i) *the Great Lakes; and*

9 “(ii) *marine coastal waters (including*
10 *coastal estuaries) that are designated under*
11 *section 303(c) by a State for use for swim-*
12 *ming, bathing, surfing, or similar water*
13 *contact activities.*

14 “(B) *EXCLUSIONS.*—*The term ‘coastal*
15 *recreation waters’ does not include—*

16 “(i) *inland waters; or*

17 “(ii) *waters upstream of the mouth of*
18 *a river or stream having an unimpaired*
19 *natural connection with the open sea.*

20 “(22) *FLOATABLE MATERIAL.*—

21 “(A) *IN GENERAL.*—*The term ‘floatable ma-*
22 *terial’ means any foreign matter that may float*
23 *or remain suspended in the water column.*

24 “(B) *INCLUSIONS.*—*The term ‘floatable ma-*
25 *terial’ includes—*

26 “(i) *plastic;*

1 “(ii) aluminum cans;

2 “(iii) wood products;

3 “(iv) bottles; and

4 “(v) paper products.

5 “(23) *PATHOGEN INDICATOR.*—*The term ‘patho-*
6 *gen indicator’ means a substance that indicates the*
7 *potential for human infectious disease.’.*”

8 **SEC. 6. INDIAN TRIBES.**

9 *Section 518(e) of the Federal Water Pollution Control*
10 *Act (33 U.S.C. 1377(e)) is amended by striking “and 404”*
11 *and inserting “404, and 406”.*

12 **SEC. 7. REPORT.**

13 *(a) IN GENERAL.*—*Not later than 4 years after the*
14 *date of enactment of this Act, and every 4 years thereafter,*
15 *the Administrator of the Environmental Protection Agency*
16 *shall submit to Congress a report that includes—*

17 *(1) recommendations concerning the need for ad-*
18 *ditional water quality criteria for pathogens and*
19 *pathogen indicators and other actions that should be*
20 *taken to improve the quality of coastal recreation wa-*
21 *ters;*

22 *(2) an evaluation of Federal, State, and local ef-*
23 *forts to implement this Act, including the amend-*
24 *ments made by this Act; and*

1 (3) *recommendations on improvements to meth-*
2 *odologies and techniques for monitoring of coastal*
3 *recreation waters.*

4 (b) *COORDINATION.*—*The Administrator of the Envi-*
5 *ronmental Protection Agency may coordinate the report*
6 *under this section with other reporting requirements under*
7 *the Federal Water Pollution Control Act (33 U.S.C. 1251*
8 *et seq.).*

9 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

10 *There are authorized to be appropriated to carry out*
11 *the provisions of this Act, including the amendments made*
12 *by this Act, for which amounts are not otherwise specifi-*
13 *cally authorized to be appropriated, such sums as are nec-*
14 *essary for each of fiscal years 2001 through 2005.*

Attest:

Secretary.

106TH CONGRESS
2D SESSION

H. R. 999

AMENDMENT

HR 999 EAS—2

HR 999 EAS—3

HR 999 EAS—4

HR 999 EAS—5