



H.R. 2537 – Beach Protection Act

EXECUTIVE SUMMARY

H.R. 2537 was introduced by Representative Frank Pallone (D-NJ) and was reported, as amended, by voice vote from the Committee on Transportation and Infrastructure on December 12, 2007. The bill is expected to be considered on the floor under an open rule with a preprinting requirement on April 10, 2008.

H.R. 2537 reauthorizes the Beaches Environmental Assessment and Coastal Health (BEACH) Act that was enacted in 2000. The BEACH Act amended the Clean Water Act to require States with coastal recreation waters to adopt water quality criteria and standards for waters with pathogens and pathogen indicators that the Environmental Protection Agency (EPA) has identified.

The bill requires the EPA to publish criteria for the use of rapid testing methods at coastal recreation waters used by the public that will enhance the protection of public health and safety. In addition, it requires 24-hour notification of appropriate Federal, state, and local public health authorities if pathogen levels exceed, or are likely to exceed, applicable water quality standards. H.R. 2537 also requires the EPA to study the formula for how grants are distributed under the BEACH Act.

According to the Congressional Budget Office, "CBO estimates that implementing H.R. 2537 would cost \$24 million in 2008 and \$186 million over the 2008-2012 period. Enacting the bill would not affect direct spending or revenues."

FLOOR SITUATION

H.R. 2537 is being considered on the floor under an open rule with a preprinting requirement. The Rule:

- Waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI.
- Provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure.
- Provides that the amendment in the nature of a substitute recommended by the Committee on Transportation and Infrastructure now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.
- Waives all points of order against the committee amendment in the nature of a substitute except those arising under clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).
- Makes in order only those amendments to the amendment in the nature of a substitute that are preprinted in the *Congressional Record* before beginning consideration of the bill or are pro forma amendments for the purpose of debate.
- Provides that each amendment printed in the *Congressional Record* may be offered only by the Member who caused it to be printed or a designee, and that each amendment shall be considered as read.



- Provides one motion to recommit with or without instructions.

This legislation was introduced by Representative Frank Pallone (D-NJ) on May 24, 2007. The bill was reported as amended, by voice vote, from the Committee on Transportation and Infrastructure on December 12, 2008.

H.R. 2537 is expected to be considered on the House floor on April 10, 2008.

BACKGROUND

On October 10, 2000, President William J. Clinton signed the Beaches Environmental Assessment and Coastal Health (BEACH) Act (P.L. 106-284) into law. The BEACH Act amended the Clean Water Act to require States with coastal recreation waters to adopt water quality criteria and standards for waters with pathogens and pathogen indicators that the Environmental Protection Agency (EPA) has identified.

In addition, the BEACH Act required the EPA to conduct additional pathogen studies and to publish new or revised water quality standards within five years of the enactment of the legislation. However, the EPA is still in the process of conducting this study and no new or revised water quality standards have been published.

The United States has 23,000 miles of coastline, 5,500 miles of shoreline along the Great Lakes, and more than 3.6 million miles of rivers and streams. Prior to the enactment of the BEACH Act, only 16 of the 35 states and territories with coastal recreation waters had adopted the EPA's 1986 Ambient Water Quality Criteria for Bacteria. Since the enactment of the BEACH Act, all 35 states have implemented water quality standards required by the EPA.

The EPA's BEACH Program currently consists of five components: strengthening beach standards and testing; providing faster laboratory test methods; predicting pollution; investing in health and methods research; and informing the public about the quality of water at their beaches and risks associated with swimming in polluted water. In 2008, the EPA made \$9.75 million in grants available to states to protect public health at our nation's beaches.

SUMMARY

Authorization Level: H.R. 2537 reauthorizes the Beaches Environmental Assessment and Coastal Health (BEACH) Act to provide \$40 million for each fiscal year 2009 to 2012. (The program is currently authorized at \$30 million per year.)

Rapid Testing: The bill requires the Administrator of the Environmental Protection Agency (EPA) to publish criteria for the use of rapid testing methods at coastal recreation waters used by the public that will enhance the protection of public health and safety. The bill defines a "rapid testing method" as a method of testing the water quality of coastal recreation waters for which results are available as soon as practicable and not more than 6 hours after a water quality sample is received by the testing facility.

Government Notification Requirements: H.R. 2537 requires notification of the appropriate Federal, State, and local government entities within 24 hours of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators. In addition, it requires states to submit an annual report to the EPA Administrator detailing the incidents of pathogen levels exceeding applicable water quality standards.

Public Notification Requirements: The bill increases the requirements for public notification of contaminated coastal recreation waters and information on beach closures. It requires States and



localities to develop a publicly searchable database with water quality information for specific beaches or water access points. In addition, states and localities must develop measures for immediate postings of signs at beaches where the water contains pathogen levels that exceed the applicable water quality standards and measures to ensure the state closes beaches and water access points within 24 hours of finding the pathogen level higher than applicable water quality standards.

Compliance Review: H.R. 2357 authorizes the Administrator to conduct a written assessment of the implementation of the BEACH Act by states and allows the Administrator to take corrective action if states are not in compliance. In addition, it requires the Government Accountability Office (GAO) to review and report on the Administrator's actions in carrying out the compliance reviews.

Grant Distribution Formula: The bill requires the EPA Administrator to study the formula for grant distribution to identify possible areas for revision and to report findings to Congress within 12 months of the enactment of this Act.

Pathogen List: The bill requires the Administrator to publish a list of all coastal recreation waters pathogens studied during the development of new or revised water quality criteria in the Federal Register.

AMENDMENTS

- 1) Representative Eddie Bernice Johnson (D-TX): The amendment strikes the criteria for use of rapid water testing and replaces it with a requirement for the Administrator to complete an evaluation and validation of rapid testing methods and to provide guidance for their use.
- 2) Representative Carolyn McCarthy (D-NY): The amendment requires the Administrator of the Environmental Protection Agency to conduct a study of the presence of pharmaceuticals and personal care products in coastal recreation waters and to report the findings to Congress within one year of the enactment of the bill.
- 3) Representative Vito Fossella (R-NY): The amendment adds a new title at the end of the bill consisting of the text of the Senate version of the Foreign Intelligence Surveillance Act.
- 4) Representative Dennis Kucinich (D-OH): The amendment requires State or local governments to make information regarding identified sources of pathogenic contamination available to the public on the Internet within 24 hours of identification.
- 5) Representative John Peterson (R-PA): The amendment adds a new title at the end of the bill consisting of the text of the National Environment and Energy Development Act.
- 6) Representative Mark Kirk (R-IL): The amendment requires mercury to be included as a pathogen indicator.
- 7) Representative Jeff Flake (R-AZ): The amendment prohibits the use of funds authorized by this bill for Congressional earmarks.

**Note: The House passed this amendment by a vote of 263 to 117, with Representative David Obey (D-WI) voting present, on April 10, 2008.*

- 8) Representative Jeff Flake (R-AZ): The amendment lowers the authorization level in the bill to \$30 million for each fiscal year 2009 to 2012.



LEGISLATIVE DIGEST

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- 9) Representative Jeff Flake (R-AZ): The amendment expresses that it is the sense of Congress that the program development and implementation grants program remain a formula-based grant program and prohibits the use of funds authorized by this legislation for Congressional earmarks.
- 10) Representative Laura Richardson (D-CA): The amendment requires the Administrator of the Environmental Protection Agency to update the list of beaches that are subject to monitoring and the list of beaches that have no monitoring and notification programs within 12 months of the enactment of the bill and biennially thereafter.
- 11) Representative Jay Inslee (D-WA): The amendment requires the Administrator to conduct a study on the impact of climate change on pollution of coastal recreation waters.
- 12) Representative Brian Bilbray (R-CA): The amendment will authorize the EPA to conduct a three year study on whether molecular testing provides more benefits than culture testing.

COST

According to the Congressional Budget Office (CBO) cost estimate, "Assuming the appropriation of the necessary funds, CBO estimates that implementing H.R. 2537 would cost \$24 million in 2008 and \$186 million over the 2008-2012 period. Enacting the bill would not affect direct spending or revenues." ([CBO Cost Estimate](#))

STAFF CONTACT

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