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## Chapter 2: Grants and Performance Criteria

This chapter addresses the basic requirements that an applicant must meet to receive a program implementation grant. The chapter identifies relevant sections of the BEACH Act, briefly describes the corresponding performance criteria that EPA has developed, and provides additional grant-related information.

### 2.1 BEACH Act Conditions and Requirements Applicable to Section 406 Grants

The BEACH Act establishes a series of conditions and requirements related to grants for developing and implementing a BEACH monitoring and notification program. Section 406(c), which addresses the content of state and local programs, applies to all grants awarded to states, tribes, and local governments under the authority of section 406 regardless of whether the grant is for development or implementation of a beach monitoring program. Section 406(b)(3)(A), which addresses reporting, applies to all development and implementation grants awarded to states and tribes under the authority of section 406. Section 406(b)(3)(B), which addresses delegation to local governments, applies to development and implementation grants awarded to states only. The requirements set forth at section 406(b)(2)(A) apply only to implementation grants to states, tribes, and local governments. Sections 406(a), (b), and (c) have been reproduced below:

- **Section 406(a) Monitoring and Notification**

(1)...the Administrator shall publish performance criteria for –

(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or similar points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

(B) the prompt notification of the public, local governments, and the Administrator of any exceeding, or likelihood of exceeding, applicable coastal recreation water quality standards described in subparagraph (A).

- **Section 406(b) Program Development and Implementation Grants**

(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

(2) Limitations

(A) In General The Administrator may make grants to States and local governments to implement a monitoring and notification program if –

(i) the program is consistent with the performance criteria published by the Administrator under subsection (a);

(ii) the State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

(iii) the State or local government makes available to the Administrator the factors used to prioritize the use of funds under clause (ii);

(iv) The State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

(v) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

(2)(B) Grants to Local Governments –The Administrator may make a grant to a local government under this subsection for implementation of a monitoring and notification program only if, after the 1-year beginning on the date of publication of performance criteria under subsection (a)(1), the Administrator determines that the State is not implementing a program that meets the requirements of this subsection, regardless of whether the State has received a grant under this subsection.

### (3) Other Requirements

(A) REPORT –A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, a report that describes –

(i) data collected as part of the program for monitoring and notification as described in subsection (c); and

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

(B) DELEGATION A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria under subsection (a).

#### • **Section 406(c) Content of State and Local Government Programs**

As a condition of receipt of a grant under subsection (b), a State or local government program shall identify:

1. lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;
2. in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;
3. the frequency and location of monitoring and assessment of coastal recreation waters based on–

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- (A) the periods of recreational use of the waters;
  - (B) the nature and extent of use during certain periods;
  - (C) the proximity of the waters to known point sources and nonpoint sources of pollution; and
  - (D) any effect of storm events on the waters;
4.
    - (A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and
    - (B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);
  5. measures for prompt communication 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 to –
    - (A) the Administrator, in such form as the Administrator determines to be appropriate; and
    - (B) a designated official of the local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;
  6. measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and
  7. measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

## 2.2 Performance Criteria

EPA has developed nine performance criteria for the implementation of monitoring, assessment, and notification programs. To be eligible for a grant to implement a monitoring and notification program, the state, tribal, or local government's program must be consistent with these performance criteria. The performance criteria also apply to federal agency programs and programs directly implemented by EPA. These performance criteria are based on and incorporate other requirements of the sections of the BEACH Act provided above.

The general requirements of the performance criteria are listed in table 2-1 and summarized in sections 2.2.1 through 2.2.9. The specific requirements associated with each of the performance criteria, as well as more detailed discussions, are provided in subsequent chapters.

**Table 2-1. Summary of BEACH Act Performance Criteria**

Category	Performance Criterion	General Requirements	Chapter Where Discussed
<b>Evaluation and Classification</b>	1	Develop risk-based beach evaluation and classification plan	3
<b>Monitoring</b>	2	Develop tiered monitoring plan	4
	3	Monitoring report submission and delegation	4
	4	Methods and assessment procedures	4
<b>Public Notification and Prompt Risk Communication</b>	5	Public notification and risk communication plan	5
	6	Measures to notify EPA and local governments	5
	7	Measures to notify the public	5
	8	Notification report submission and delegation	5
<b>Public Evaluation</b>	9	Public evaluation of program	2

**2.2.1 Develop Risk-based Beach Evaluation and Classification Plan (Performance Criterion 1)**

This performance criterion requires a state or tribe to develop a risk-based beach evaluation and classification plan and apply it to state or tribal coastal recreation waters. A state or tribal government program must describe the factors used in its evaluation and classification process and explain how its coastal recreation waters are ranked as a result of the process. This process must result in the identification of a list of coastal recreation waters, including coastal recreation waters adjacent to beaches or similar points of access used by the public. General and specific requirements for this performance criterion are discussed in more detail in chapter 3.

**2.2.2 Develop Tiered Monitoring Plan (Performance Criterion 2)**

The second performance criterion requires development of an adequate tiered monitoring plan. This plan must adequately address the frequency and location of monitoring and assessment of coastal recreation waters based on the periods of recreational use of the waters, the nature and extent of use during certain periods, the proximity of the waters to known point sources and nonpoint sources of pollution, and any effect of storm events on the waters. General and specific requirements for this criterion are discussed in more detail in Chapter 4.

### **2.2.3 Monitoring Report Submission and Delegation (Performance Criterion 3)**

Performance Criterion 3 requires states, tribes, and local governments to develop a mechanism to collect and report their monitoring data in timely reports and, in the case of states, to document any delegation of monitoring responsibilities that might have been made to local governments. General and specific requirements for this criterion are discussed in more detail in Chapter 4.

**Report Submission.** States, tribes, and local governments must report their monitoring data to the public, EPA, and other agencies in a timely manner. States are encouraged to coordinate closely with local governments to ensure that monitoring information is submitted in a consistent manner. Reported data must be consistent with the list of required data elements in appendix E

**Delegation.** If monitoring responsibilities are delegated to local governments, the state grant recipient must describe the process by which the state may delegate to local governments responsibility for implementing the monitoring program.

### **2.2.4 Methods and Assessment Procedures (Performance Criterion 4)**

Performance Criterion 4 requires the development of detailed methods and assessment procedures. States, tribes, or local governments must adequately address and submit to EPA methods for detecting levels of pathogens and pathogen indicators that are harmful to human health in coastal recreation areas; provide documentation to support the validity of methods other than those currently recommended or approved by EPA; and identify and submit to EPA assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation areas. General and specific requirements for this criterion are discussed in more detail in Chapter 4.

### **2.2.5 Public Notification and Risk Communication Plan (Performance Criterion 5)**

The state, tribe, or local government must develop an overall public notification and risk communication plan. The plan must describe the state's, tribe's, or local government's public notification efforts and measures to inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards. General and specific requirements for this criterion are discussed in more detail in Chapter 5.

### **2.2.6 Measures to Notify EPA and Local Governments (Performance Criterion 6)**

The state, tribe, or local government must adequately identify measures for prompt communication 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. The state, tribe, or local government must identify how this information will be promptly communicated to EPA. States only must identify how this information will be promptly communicated to a designated official of the local government for the area adjoining the coastal recreation waters for which the failure to meet applicable standards is identified. General and specific requirements for this criterion are discussed in more detail in Chapter 5.

### **2.2.7 Measures to Notify the Public (Performance Criterion 7)**

A state, tribe, or local government program must adequately address the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators. General and specific requirements for this criterion are discussed in more detail in Chapter 5.

### **2.2.8 Notification Report Submission and Delegation (Performance Criterion 8)**

States, tribes, and local governments must compile their notification plans in timely reports and, in the case of states, describe any delegation of notification responsibilities that has been made, or the state intends to make, to local governments. General and specific requirements for this criterion are discussed in more detail in Chapter 5.

**Report Submission.** The mechanism must provide that the states, tribes, and local governments will report to EPA the actions they have taken to notify the public when water quality standards are exceeded.

**Delegation.** In the case of a state, if notification responsibilities are delegated to local governments, the state must describe the process by which the state may delegate to local governments responsibility for implementing the notification program.

### **2.2.9 Public Evaluation of Program (Performance Criterion 9)**

The ninth performance criterion is to provide the public with an opportunity to review the program through public notice, review, and an opportunity to comment.

Performance Criteria		Chapter Section
General requirement	Specific requirements	
<p><b>Public Evaluation of Program (Performance Criterion 9):</b> This performance criterion requires a state, tribe, or local government to provide the public with an opportunity to review the program through public notice, review, and an opportunity to comment.</p>	Provide an opportunity for the public to comment on the following components of a beach monitoring and public notification program:	
	1. Beach evaluation and classification process, including a list of waters to be monitored and beach ranking.	3.5
	2. Sampling design and monitoring plan, including sampling location and sampling frequency.	4.2
	3. Public notification and risk communication plan, including methods to notify the public of a swimming advisory.	5.2

The public evaluation can be accomplished through public comments, meetings, forums, or workshops. For example, when classifying and ranking beaches, it is beneficial to gather input from members of the community regarding the recreation waters they would like to see monitored. Annual public or community meetings, surveys of the users at the beach, local newspaper articles, or other sources can provide insight into public opinion about the beach, including why the beach is or is not used (e.g., for sunning, running, swimming, or surfing), perceptions of water quality and health problems, and whether beach users desire a monitoring and notification program (if none exists) or how satisfied they are with the program that has been implemented.

## 2.3 Additional Grant Information

### 2.3.1 Grant Program Phases

The BEACH Act authorizes EPA to award grants for both developing and implementing monitoring and notification programs. Accordingly, EPA has established a two-phase grant program—an initial program *development* phase followed by a program *implementation* phase. The initial phase of the grant program focuses on development of a state or tribal beach monitoring and notification program. The second phase of the grant program focuses on implementation of a state or tribal beach monitoring and notification program.

### **2.3.2 Eligibility for Grants**

#### **State Governments**

Coastal and Great Lakes states are eligible to apply for grants to develop and implement monitoring and notification programs. For the purposes of the BEACH Act, the term “state” applies to 30 coastal and Great Lakes states and includes six coastal territories defined in CWA section 502: the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Trust Territory of the Pacific Islands, however, no longer exists. The Marshall Islands, the Federated States of Micronesia, and Palau, which were previously entities in the Trust Territory of the Pacific Islands, have entered into Compacts of Free Association with the Government of the United States. As a result, each is now a sovereign, self-governing entity and, as such, is no longer eligible to receive grants as a territory or possession of the United States.

#### **Local Governments**

The BEACH Act authorizes EPA to make grants to local governments for developing and implementing a monitoring and notification program only if, after the 1-year period beginning on the date of publication of this document, EPA determines that the state or tribe is not implementing a program that meets the requirements of the statute.

#### **Tribal Governments**

Section 518(e) of the CWA authorizes EPA to treat eligible Indian tribes in the same manner as states for the purpose of section 406. To receive BEACH Act grant funds, a tribe must have coastal recreation waters for which water quality standards have been established under the CWA. To date, no tribes have met this requirement.

### **2.3.3 Funding**

CWA section 406(i) authorizes appropriations of up to \$30 million per year through fiscal year 2005 to develop and implement beach programs. The actual amount of funding available to individual states and tribes will depend on congressional appropriation levels and an allotment formula for allocating funds among eligible entities. The BEACH Act grants are not intended to replace a state’s or tribe’s funding for its beach monitoring and notification program. The grants are intended to supplement existing funds and encourage states and tribes to invest in and support their beach monitoring and notification program.

### **2.3.4 Selection Process**

The EPA Administrator has delegated the authority to award BEACH Act program development and implementation grants to the Assistant Administrator of the Office of Water and to the EPA Regional Administrators. The EPA regional offices will award program development and implementation grants through a noncompetitive process.

EPA expects to award grants to all eligible state, territory, tribal, and local government applicants that meet the performance criteria specified in this document and other applicable statutory and regulatory requirements.

### **2.3.5 Application Procedure**

BEACH Act grants will be awarded and administered according to the regulations at 40 CFR Part 31 (“Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”). The EPA regional offices have the lead responsibility for providing grant application packages and advice. Refer to appendix B for a list of the current EPA Regional Grant Coordinators or visit the BEACH Watch web site for information on specific grants, grant coordinators, or other pertinent information at <http://www.epa.gov/waterscience/beaches>.

## **2.4 References**

USEPA. 2001. Notice of Availability of Grants for Development of Coastal Recreation Water Monitoring and Public Notification under the Beaches Environmental Assessment and Coastal Health Act. U.S. Environmental Protection Agency, Office of Water. *Federal Register*, May 30, 2001, 66(104):29308-29310.