

CLEAN COASTAL ENVIRONMENT AND PUBLIC HEALTH  
ACT OF 2009

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JULY 20, 2009.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2093]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 2093) to amend the Federal Water Pol-  
lution Control Act relating to beach monitoring, and for other pur-  
poses, having considered the same, report favorably thereon with  
an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Clean Coastal Environment and Public Health Act  
of 2009”.

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

(a) **MONITORING PROTOCOLS.**—Section 406(a)(1)(A) of the Federal Water Pollution  
Control Act (33 U.S.C. 1346(a)(1)(A)) is amended by striking “methods for moni-  
toring” and inserting “protocols for monitoring that are most likely to detect patho-  
genic contamination”.

(b) **SOURCE TRACKING.**—Section 406(b) of such Act (33 U.S.C. 1346(b)) is amend-  
ed—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respec-  
tively; and

(2) by inserting after paragraph (2) the following:

“(3) **SOURCE IDENTIFICATION PROGRAMS.**—In carrying out a monitoring and no-  
tification program, a State or local government may develop and implement a  
coastal recreation waters pollution source identification and tracking program  
for coastal recreation waters adjacent to beaches or similar points of access that  
are used by the public and are not meeting applicable water quality standards  
for pathogens and pathogen indicators.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 406(i) of such Act (33 U.S.C. 1346(i)) is amended by striking “\$30,000,000 for each of fiscal years 2001 through 2005” and inserting “\$40,000,000 for each of fiscal years 2010 through 2014”.

**SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT.**

Section 8 of the Beaches Environmental Assessment and Coastal Health Act of 2000 (114 Stat. 877) is amended by striking “2005” and inserting “2014”.

**SEC. 4. STATE REPORTS.**

Section 406(b)(4)(A)(ii) of the Federal Water Pollution Control Act (as redesignated by section 2(b)(1) of this Act) is amended by striking “public” and inserting “public and all environmental agencies of the State with authority to prevent or treat sources of pathogenic contamination in coastal recreation waters”.

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

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

(b) REVISED CRITERIA.—Section 304(a)(9)(A) of such Act (33 U.S.C. 1314(a)(9)(A)) is amended by striking “methods, as appropriate” and inserting “methods, including rapid testing methods”.

(c) VALIDATION AND USE OF RAPID TESTING METHODS.—

(1) VALIDATION OF RAPID TESTING METHODS.—Not later than October 15, 2012, the Administrator of the Environmental Protection Agency (in this Act referred to as the “Administrator”) shall complete an evaluation and validation of a rapid testing method for the water quality criteria and standards for pathogens and pathogen indicators described in section 304(a)(9)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)(A)).

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

(A) IN GENERAL.—Not later than 180 days after completion of the validation under paragraph (1), and after providing notice and an opportunity for public comment, the Administrator shall publish guidance for the use at coastal recreation waters adjacent to beaches or similar points of access that are used by the public of the rapid testing method that will enhance the protection of public health and safety through rapid public notification of any exceeding of applicable water quality standards for pathogens and pathogen indicators.

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

(d) DEFINITION.—Section 502 of such Act (33 U.S.C. 1362) is amended by adding at the end the following:

“(26) RAPID TESTING METHOD.—The term ‘rapid testing method’ means 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 the commencement of the rapid testing method in the laboratory.”.

(e) REVISIONS TO RAPID TESTING METHODS.—

(1) IN GENERAL.—Upon completion of the validation required under subsection (c)(1), and every 5 years thereafter, the Administrator shall identify and review potential rapid testing methods for existing water quality criteria for pathogens and pathogen indicators for coastal recreation waters.

(2) REVISIONS TO RAPID TESTING METHODS.—If a rapid testing method identified under paragraph (1) will make results available in less time and improve the accuracy and reproducibility of results when compared to the existing rapid testing method, the Administrator shall complete an evaluation and validation of the rapid testing method as expeditiously 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 2017, 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 commencement of the rapid testing method.

**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) by striking “prompt communication” and inserting “communication, within 24 hours of the receipt of the results of a water quality sample;”;

(2) in subparagraph (A) of paragraph (5)—

(A) by inserting “(i) in the case of any State in which the Administrator is administering the program under section 402,” before “the Administrator” the first place it appears; and

(B) by inserting at the end the following:

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

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

(4) by inserting after paragraph (5) the following:

“(6) measures for an annual report to the Administrator, in such form as the Administrator determines appropriate, on the occurrence, nature, location, pollutants involved, and extent of any exceeding of applicable water quality standards for pathogens and pathogen indicators;”.

#### SEC. 7. CONTENT OF STATE AND LOCAL PROGRAMS.

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

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

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

(B) by striking “and” at the end;

(2) by striking the period at the end of paragraph (8) (as redesignated by section 6(3) of this Act) and inserting a semicolon; and

(3) by adding at the end the following:

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

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

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

“(C) identifies applicable water quality standards, monitoring protocols, sampling plans and results, and the number and cause of coastal recreation water closures and advisory days; and

“(D) is updated within 24 hours of the availability of revised information;

and

“(10) measures to ensure that closures or advisories are made or issued within 2 hours after the receipt of the results of a water quality sample that exceeds applicable water quality standards for pathogens and pathogen indicators.”.

#### SEC. 8. COMPLIANCE REVIEW.

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

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

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

(3) by striking “In the” and inserting the following:

“(1) IN GENERAL.—In the”; and

(4) by adding at the end the following:

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

“(A) prepare a written assessment of compliance with all statutory and regulatory requirements of this section for each State and local government and of compliance with conditions of each grant made under this section to a State or local government;

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

“(C) make each of the assessments available to the public in a searchable database on the Internet on or before December 31 of such calendar year.

“(3) CORRECTIVE ACTION.—If a State or local government that the Administrator notifies under paragraph (2) is not in compliance with any requirement or grant condition described in paragraph (2) fails to take such action as may be necessary to comply with such requirement or condition within one year after the date of notification, any grants made under subsection (b) to the State or local government, after the last day of such one-year period and while the State or local government is not in compliance with all requirements and grant conditions described in paragraph (2), shall have a Federal share of not to exceed 50 percent.

“(4) GAO REVIEW.—Not later than December 31 of the third calendar year beginning after the date of enactment of this paragraph, the Comptroller General shall conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after such date of enactment and submit to Congress a report on the results of such review.”.

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

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

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

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

Section 303(i)(2)(A) of the Federal Water Pollution Control Act (33 U.S.C. 1313(i)(2)(A)) is amended by striking “paragraph (1)(A)” each place it appears and inserting “paragraph (1)”.

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

Section 406(g)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1346(g)(3)) is amended by striking “The Administrator” and all that follows through the period and inserting “Within 12 months after the date of the enactment of the Clean Coastal Environment and Public Health Act of 2009, and biennially thereafter, the Administrator shall update the list described in paragraph (1).”.

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

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

(b) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) INFORMATION ON POTENTIAL CONTAMINANT IMPACTS.—The report shall include information on the potential impacts of pathogenic contamination on ground and surface water resources as well as public and ecosystem health in coastal communities.

(3) MONITORING.—The report shall address monitoring required to document and assess changing conditions of coastal water resources, recreational waters, and ecosystems and review the current ability to assess and forecast impacts associated with long-term change.

(4) FEDERAL ACTIONS.—The report shall highlight necessary Federal actions to help advance the availability of information and tools to assess and mitigate these effects in order to protect public and ecosystem health.

(5) CONSULTATION.—In developing the report, the Administrator shall work in consultation with agencies active in the development of the National Water Quality Monitoring Network and the implementation of the Ocean Research Priorities Plan and Implementation Strategy.

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

(a) STUDY.—The Administrator shall conduct a study to review the available scientific information pertaining to the impacts of excess nutrients on coastal recreation waters.

(b) REPORT.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a).

(2) IMPACTS.—Such report shall include information on any adverse impacts of excess nutrients on coastal recreation waters, including adverse impacts caused by algal blooms resulting from excess nutrients.

(3) RECOMMENDATIONS.—Such report shall include recommendations for action to address adverse impacts of excess nutrients and algal blooms on coastal recreation waters, including the establishment and implementation of numeric water quality criteria for nutrients.

(4) CONSULTATION.—In developing such report, the Administrator shall consult with the heads of other appropriate Federal agencies (including the National Oceanic and Atmospheric Administration), States, and local government entities.

## PURPOSE OF THE LEGISLATION

H.R. 2093, the “Clean Coastal Environment and Public Health Act of 2009”, as amended, revises the Federal Water Pollution Control Act (Clean Water Act) to reauthorize appropriations for the Beaches Environmental Assessment and Coastal Health Act (BEACH Act) through fiscal year 2014, and to make programmatic changes to state and local coastal recreation water quality monitoring and notification programs.

## BACKGROUND AND NEED FOR LEGISLATION

The nation is fortunate to have nearly 23,000 miles of ocean shoreline along the continental United States, more than 5,500 miles of Great Lakes shoreline, and 3.6 million miles of rivers and streams. Beaches are an important part of the complex and dynamic coastal watershed, providing numerous recreational opportunities for millions of people, including boating, fishing, swimming, beachcombing, bird-watching, and sunbathing.

Each year, more than 180 million people visit our nation’s coastal and Great Lakes waters for recreational purposes. This activity supports more than 28 million jobs and leads to investments of over \$50 billion in goods and services. It is important to give the public confidence in the quality of our nation’s coastal recreational waters. This confidence is important not only to each citizen who swims or surfs, but also to the tourism and recreation industries that rely on safe and swimmable coastal waters.

According to a recent Environmental Protection Agency (EPA) report, over the past 50 years, epidemiological studies and investigations following widespread waterborne illnesses have linked swimming in polluted water with adverse health effects. Swimming-related diseases can range from less severe gastrointestinal diseases (e.g., sore throats and diarrhea) and non-gastrointestinal diseases (e.g., respiratory, ear, eye, and skin infections) to more serious illnesses, such as meningitis or hepatitis.

On October 10, 2000, the BEACH Act was signed into law. This legislation, which amended the Clean Water Act, was introduced to limit and prevent human exposure to polluted coastal recreation waters (including waters along the Great Lakes) by assisting States and local governments to implement beach monitoring, assessment, and public notification programs. For these purposes, the BEACH Act authorized \$30 million annually for fiscal years 2001 through 2005.

In addition, the BEACH Act required States and tribes with coastal recreation waters to adopt minimum water quality standards for pathogens and pathogen indicators by April 10, 2004, and directed EPA to promulgate standards for States that failed to establish standards as protective of human health as EPA’s existing criteria—the 1986 Ambient Water Quality Criteria for Bacteria.

Finally, the BEACH Act required EPA to conduct additional studies associated with pathogens and human health and to publish new or revised water quality criteria for pathogens and pathogen indicators within five years of the date of enactment of the BEACH Act (ending on October 10, 2005), based on the results of these studies. EPA is also directed to review these revised water quality criteria every five years, and to revise the criteria, as nec-

essary, to protect human health. States are directed to adopt any revised water quality criteria within three years of publication by EPA.

## IMPLEMENTATION OF THE BEACH ACT

### BEACH ACT FUNDING

Since 2001, Congress has appropriated nearly \$82 million in BEACH Act grant funds to the 35 States, territories, and tribes with coastal recreation waters to support the implementation of coastal recreation water monitoring and notification programs. According to EPA, States are using the grant funds to implement beach monitoring and notification programs that are consistent with national guidance. States collect and analyze water samples to determine whether local recreation waters exceed (or are likely to exceed) water quality standards for public health protection, and notify the public if water quality standards are exceeded (or likely to be exceeded).

EPA awards grants to the 35 eligible States, territories, and tribes using an allocation formula developed by EPA in 2002. According to EPA, this allocation formula was developed in consultation with the States and other stakeholders, and uses three factors—beach season length, beach miles, and beach usage—to determine an equitable allocation of funds. However, because data for beach miles and beach usage were not readily available in 2002, shoreline length and coastal population were used as surrogates for these factors.

### STATE WATER QUALITY STANDARDS

Prior to the enactment of the BEACH Act, only 16 States and territories with coastal recreation waters had adopted EPA's 1986 criteria for pathogens and pathogen indicators in coastal recreation waters, and incorporated these criteria into their water quality standards. The remaining States were either using water quality criteria older than the 1986 criteria or no water quality criteria at all.

Since enactment of the BEACH Act, all 35 States and territories with coastal recreation waters have adopted criteria for pathogens and pathogen indicators that are at least as protective of human health as EPA's 1986 criteria. Thirteen States and territories adopted these criteria voluntarily, and the remaining States and territories were included in a November 16, 2004 EPA rulemaking to adopt water quality standards consistent with EPA's 1986 criteria. *See* Water Quality Standards for Coastal and Great Lakes Recreation Waters, 69 Fed. Reg. 67218 (Nov. 16, 2004).

### WATER QUALITY CRITERIA AND STANDARDS

Section 304(a) of the Clean Water Act directs EPA to establish water quality criteria for all waters and uses, including human health criteria for recreational uses of coastal waters. Federal water quality criteria serve as guidance to States and tribes in adopting and revising State and tribal water quality criteria and water quality standards under section 303 of the Clean Water Act. Under current Clean Water Act regulations, States and tribes may adopt the Federal criteria as their own, may modify the Federal

criteria to reflect site-specific conditions, or may base their water quality criteria on other scientifically defensible methods. 40 C.F.R. § 131.11(b)(1).

According to EPA, the Agency's current criteria for pathogen and pathogen indicators are based on a series of studies conducted by EPA in the late 1970s and early 1980s. In 1986, EPA recommended the use of indicator organisms as a good predictor of potential waterborne illness in water—enterococci for fresh and marine waters, and *E. coli* in fresh water.

However, during consideration of the BEACH Act in the 1990s, the Committee on Transportation and Infrastructure was concerned that the 1986 revised bacteria criteria were inadequate indicators for determining the human health risk from all microorganisms, including viruses or other pathogens, such as giardia or cryptosporidium. The Committee noted during a 1998 hearing on this issue that EPA's 1986 criteria needed to be updated to improve the scientific basis for identifying pathogens in coastal recreation waters that were potentially harmful to human health.

In response, the BEACH Act directed the EPA Administrator (Administrator) to conduct additional studies on revised criteria for coastal recreation waters, and to develop newer, accurate, and expeditious testing methods for detecting the presence of pathogens harmful to human health. Section 304(a) of the Clean Water Act was amended to direct the Administrator to develop and publish new or revised water quality criteria for coastal recreation waters for the purpose of protecting human health within five years of the date of enactment of the BEACH Act (ending on October 10, 2005), and to review, and revise if necessary, these water quality criteria every five years thereafter.

#### LITIGATION AND SCHEDULE FOR PUBLICATION OF NEW OR REVISED WATER QUALITY CRITERIA

On August 3, 2006, the Natural Resources Defense Council sued EPA for its failure to publish "new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate) . . . for the purpose of protecting human health in coastal recreation waters" by October 10, 2005, as required by section 304(a) of the Clean Water Act, as amended by the BEACH Act.

In March 2007, the United States District Court for the Central District of California, Western Division held that EPA had violated its non-discretionary duty to publish new or revised criteria by the October 2005 deadline, in violation of the Clean Water Act. *See Natural Resources Defense Council v. EPA*, No. CV 06-4843 PSG (C.D. Cal. 2007). The court directed the parties to discuss the issue of the appropriate amount of time EPA would have to complete publication of new or revised water quality criteria for pathogens and pathogen indicators.

On August 7, 2008, the Natural Resources Defense Council and EPA, along with the intervening parties, entered into a consent decree and settlement agreement in which EPA committed to publish new or revised water quality criteria for coastal recreation waters no later than October 15, 2012. In the settlement agreement, EPA also commits to validate and publish a rapid testing method for the new or revised criteria by October 15, 2012.

## SUMMARY OF THE LEGISLATION

*Section 1. Short title*

This section designates the short title of the bill as the “Clean Coastal Environment and Public Health Act of 2009”.

*Sec. 2. Water pollution source identification*

This section amends section 406 of the Clean Water Act to require EPA to publish performance criteria for protocols to monitor coastal recreation water quality, to expand the eligible uses of coastal recreation water quality monitoring and notification program development and implementation grants, and to reauthorize appropriations for such grants.

Subsection (a) amends section 406(a)(1)(A) to require the Administrator to publish specific protocols for the monitoring of coastal recreation waters that are most likely to detect pathogenic contamination of these waters.

Subsection (b) amends section 406(b) of the Clean Water Act to authorize eligible States and local governments to utilize BEACH grant funding to develop and implement coastal recreation waters pollution source identification and tracking programs.

The Committee received testimony on the importance of identifying the sources of pollution that are causing beach closures. Proper and timely identification of sources of pollution will allow State and local governments to take action to address these sources of pollution. For example, the State of New Jersey has successfully applied microbial source tracking techniques, such as coliphage, multiple antibiotic resistance testing, and optical brighteners, to identify the source of recreational beach water quality impairments. By amending the Clean Water Act to allow States and local governments to use BEACH grant funding for source tracking, H.R. 2093 will help these governments positively identify the sources of pollution to coastal recreation waters. States and local governments can then take the necessary steps to address these sources of pollution. BEACH Act grants are limited to developing and implementing coastal water quality monitoring and notification programs. Accordingly, States and local governments need to pursue other sources of Federal funding, such as the Clean Water State Revolving Fund, for efforts to address sources of pollution.

Subsection (c) amends section 406(i) to reauthorize appropriations for coastal recreation water quality monitoring and notification program development and implementation grants through fiscal year 2014. This subsection increases the authorization of appropriations for grants from \$30 million annually to \$40 million annually, to reflect the expansion of eligible uses for such grants under the Clean Coastal Environment and Public Health Act of 2009.

*Sec. 3. Funding for Beaches Environmental Assessment and Coastal Health Act*

This section authorizes appropriations for EPA to carry out the provisions of the BEACH Act, other than the grant program authorized under section 406 of the Clean Water Act, from fiscal years 2010 through 2014.



*Sec. 4. State reports*

This section amends existing section 406(b)(3)(A)(ii) of the Clean Water Act to require States to report to the Administrator on actions taken to notify State environmental agencies with authority to prevent or treat sources of pollution in coastal recreation waters of the extent that a coastal recreation water is exceeding or is likely to exceed applicable water quality standards.

*Sec. 5. Use of rapid testing methods*

This section establishes a definitive timeline for the development, testing, and utilization of rapid testing methods for detecting the contamination of coastal recreation waters, as well as a non-discretionary duty for the Administrator to continuously review and revise rapid testing methods where such methods make accurate water quality sampling results available in less time.

The Committee has received testimony expressing concern that current testing methods, utilizing culture-based methods, require up to 24 hours for determining whether coastal recreation water adjacent to a beach or similar point of access is contaminated. As EPA noted in its March 2007 Report of the Experts Scientific Workshop on Critical Research Needs for the Development of New or Revised Recreational Water Quality Criteria, this extended processing period typically results in contaminated beaches remaining open while testing is underway, potentially placing the public at risk of coming into direct contact with contaminated water. In addition, by the time that water quality results are available and warning signs are posted, the levels of pathogens or pathogen indicators may have returned to normal.

The Committee believes that the period between when coastal recreation water is sampled to when results are made publicly available needs to be dramatically shortened to produce real-time, same-day information on the condition of the nation's beaches and recreational waters. The Committee believes that a robust monitoring and notification program that provides real-time information on the quality of coastal recreation waters is an effective way to reduce the annual number of swimming-related illnesses. The evaluation, validation, and implementation (by coastal States) of a rapid testing method for the revised water quality criteria, as required by H.R. 2093, will accomplish this task.

Section 5(a) amends section 406(c)(4)(A) of the Clean Water Act to require States and local governments to incorporate the use of rapid testing methods into state or local programs for monitoring and notification of coastal recreation waters, as a condition of eligibility for monitoring and notification grants under the BEACH Act. Under this subsection, one year after the date on which EPA validates a rapid testing method under section 5(c) of the Clean Coastal Environment and Public Health Act of 2009, States or local governments must utilize the validated rapid testing method as part of its method for detecting levels of pathogens and pathogen indicators that are harmful to human health.

Section 5(b) amends section 304(a)(9) of the Clean Water Act to require, in the publication of new or revised water quality criteria for pathogens and pathogen indicators, that the Administrator include standards for the utilization of rapid testing methods for the new or revised criteria.

Subsection 5(c)(1) requires the Administrator to complete the validation of a rapid testing method for the water quality criteria and standards for pathogen and pathogen indicators described in section 304(a)(9)(A) of the Clean Water Act no later than October 15, 2012. This timeline is consistent with that contained in the consent decree and settlement agreement entered into by the Natural Resources Defense Council and EPA on August 7, 2008. Through this consent decree and settlement agreement, EPA committed to publish new or revised water quality criteria for coastal recreation waters no later than October 15, 2012. In the settlement agreement, EPA also commits to validate and publish a rapid testing method for the new or revised criteria by October 15, 2012.

In addition, the rapid testing methods developed under subsection 5(c)(1) are to be used for determining whether a water sample from a coastal recreation water or similar point of access is meeting the water quality criteria and standards for pathogens and pathogen indicators described in section 304(a)(9)(A) of the Clean Water Act, developed “for the purpose of protecting human health in coastal recreation waters.” Rapid testing methods developed under this subsection are not intended for determining the compliance of point source discharges, including discharges from wastewater treatment facilities, with applicable effluent limitations of the Clean Water Act.

Subsection 5(c)(2) requires EPA to develop and publish guidance for the utilization of rapid testing methods, including prioritized use of rapid testing methods at those beaches or similar points of access that are most used by the public. The Committee does not expect that state or local governments are likely to utilize rapid testing methods at every beach or similar point of access within their jurisdiction. The Committee encourages States and local governments to utilize rapid testing methods at those beaches or similar points of access that have the highest use. The guidance developed under this section should assist States and localities in making this determination.

Section 5(d) amends section 502 of the Clean Water Act to define the term “rapid testing method” as a “method of testing the water quality of a coastal recreation water for which results are available as soon as practicable and not more than 6 hours after the commencement of the rapid testing method in the laboratory.” In carrying out its authority under subsection 5(c)(1), EPA is directed to validate a rapid testing method capable of producing results “as soon as practicable but not more than 6 hours” after commencement of the test. The Committee intends this definition to encourage EPA to validate a rapid testing method that can produce: (1) accurate and reproducible results, and (2) results in as short of a period as technology can accomplish. The Committee believes that compressing the time period for testing water quality will enhance the protection of public health by providing real-time information on the condition of coastal recreation waters. The Committee is aware of existing technologies that are currently available for testing water quality samples for the presence of enterococci, *E. coli*, and bacteroides that can produce accurate results in two to three hours, and encourages EPA to validate a rapid testing methodology that can achieve accurate results in a similar timeframe.

Section 5(e) requires the Administrator to periodically review the state of technology for testing water quality in coastal recreation waters to continually improve the standards for rapid testing methods, and to validate any new rapid testing method that can shorten the time necessary to produce accurate and reproducible results on the condition of such waters, with a goal of two-hour testing by 2017.

New subsection 5(e)(1) requires the Administrator, upon completion of the validation of the first generation of rapid testing methods under subsection 5(c)(1) (no later than October 15, 2012), and every five years thereafter, to review the capabilities of new or proposed rapid testing methods.

New subsection 5(e)(2) establishes a non-discretionary duty for the Administrator to complete an evaluation and validation of subsequent generations of rapid testing methods where such methods make results available in less time and improve the accuracy and reproducibility of results when compared to the existing rapid testing method.

New subsection 5(e)(3) requires the EPA Administrator to publish in the Federal Register the results of any review by EPA of potential replacement rapid testing methods.

New subsection 5(e)(4) establishes a national goal that by 2017, a rapid testing method for testing the water quality of coastal recreation waters be developed that can produce accurate and reproducible results in not more than two hours after commencement of the rapid testing method in the laboratory.

#### *Sec. 6. Notification of Federal, State, and local agencies*

This section amends section 406(c) of the Clean Water Act to expedite the communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for coastal recreation waters to the appropriate Federal, State, and local governmental agencies.

The Committee received testimony that, in many cases, the notification of contaminated coastal recreation waters to the appropriate governmental agencies and the public can be delayed, either through lengthy testing periods or a lack of consistent public notification timelines or protocols. Minimizing the potential delay in public notification is critical to protecting public health by ensuring that the public is given the opportunity to avoid contact with contaminated coastal recreation waters.

Under current law, the communication of any exceeding or potential exceeding of applicable water quality standards must occur “promptly” and must be made to the Administrator and a designated local official having jurisdiction over land adjoining the coastal recreation water.

This section removes any ambiguity in the timeline for providing notification by striking the term “prompt communication” in section 406(c)(5) and inserting “communication, within 24 hours of the receipt of the results of a water quality sample”.

This section also amends section 406(c)(5)(A) to include within the list of agencies required to receive notification of any exceeding of water quality standards State governmental agencies with the authority to require the prevention or treatment of the sources of

coastal recreation water pollution. These State governmental agencies will typically be the State agencies with approved National Pollutant Discharge Elimination System (NPDES) authority under section 402 of the Clean Water Act. However, in those States and territories without approved NPDES authority, this section provides that the 24-hour notification be provided to the Administrator.

Finally, this section adds a new paragraph six to section 406(c) that requires eligible State and local governments to submit an annual report to the Administrator on the occurrence, nature, location, pollutants involved, and extent of any exceeding of applicable water quality standards for pathogens and pathogen indicators. The Committee expects this annual report to be a cumulative accounting of any exceeding of applicable water quality standards during the annual reporting period.

#### *Sec. 7. Content of State and local programs*

This section amends section 406(c) of the Clean Water Act to strengthen the requirements for public notification of contaminated coastal recreation waters and publicly available information on beach closures.

This section amends existing section 406(c)(7) of the Clean Water Act (as redesignated by section 6(3) of the Clean Coastal Environment and Public Health Act) to require State and local governments to immediately post signs or functionally equivalent communication measures following the results of any water quality sample (or predictive methodology) that demonstrates a likelihood that the coastal recreation water is contaminated.

The Committee is aware that eight States routinely (and five additional States may) utilize a two-step, re-sampling approach to test coastal recreation waters. Under this approach, when the test results on a coastal recreation water sample detect that the water may be contaminated, the state or local governmental official can require that a second sample is tested before a decision is made to close the beach. Accordingly, if a State pairs the use of a culture-based testing methodology with a two-step, re-sampling protocol, the result may be that the public will not receive any notification that a coastal recreation water may be contaminated until three days after the initial sample is taken. Given that the best way to reduce the risk of public illness from contaminated coastal recreation waters is to avoid direct contact with such waters, the Committee believes that the time from initial testing to public notification of potential impaired water quality needs to occur as quickly as possible, and preferably on the same day.

The amendment to existing section 406(c)(7) of the Clean Water Act does not prevent States from continuing to utilize a two-step, re-sampling approach for decisions to close public beaches, but simply requires States and local governments to immediately post an advisory sign (or equivalent communication measure) warning that a water sample taken at the individual beach demonstrates the likelihood that the water may be contaminated. If the second sample demonstrates that the coastal recreation water does not exceed applicable water quality standards, the sign (or equivalent communication measure) can be promptly removed.

This section adds paragraph nine to section 406(c) of the Clean Water Act to require eligible State and local governments to identify a publicly accessible and searchable database for the posting of information on individual beaches or similar points of public access for coastal recreation waters. This new paragraph does not require that every eligible State or local government create an individual database to provide information related to its beaches, but contemplates that individual States and local governments will partner with existing public databases, including existing Internet sites, to ensure that the required information is publicly available in a timely fashion.

This section adds paragraph 10 to section 406(c) of the Clean Water Act to require eligible States and local governments to identify measures to ensure that any decision to close a beach or to issue an advisory on coastal recreation water quality are made within two hours after the State determines that the coastal recreation waters are not meeting applicable water quality standards for pathogens and pathogen indicators. The Committee does not intend this provision to require States or local governments to physically post a sign at every beach or similar point of access within two hours of notification of contamination. However, this new paragraph does require the state or local government to identify what measure it will utilize to ensure that beach closures or advisories are made or issued to the public within two hours of such notification. The Committee expects that whatever communication measure is identified by the state or local government, there is a reasonable likelihood that the notice of beach closure or advisory will be viewed and understood by the public.

#### *Sec. 8. Compliance review*

This section amends section 406(h) of the Clean Water Act to authorize the Administrator to conduct a compliance review of implementation of the BEACH Act by State and local governments, and to take corrective action for State and local governments that are not in compliance with the BEACH Act requirements. This section also requires the Government Accountability Office (GAO) to review and report on EPA's administration of the BEACH Act.

This section requires the EPA Administrator to prepare an annual written assessment of compliance with all of the statutory and regulatory requirements of the BEACH Act for each State and local government that receives a BEACH Act grant. This written assessment is to be provided to the individual State and local governments, and released to the public through a searchable, electronic database, such as the Internet.

This section also provides state and local governments with one year from the date of receipt of a written assessment from the Administrator to come into compliance with the BEACH Act requirements. If, at the end of this period, the state or local government continues to be out of compliance with the BEACH Act requirements, this section directs the Administrator to reduce the Federal share of coastal recreation water quality monitoring and notification program development and implementation grants to 50 percent.

Finally, this section directs GAO to conduct a review and report to Congress on the actions by the Administrator to carry out an-

nual written compliance assessments and take corrective action as necessary.

*Sec. 9. Publication of coastal recreation waters pathogen list*

This section amends section 304(a)(9) of the Clean Water Act to require the Administrator, upon publication of the new or revised water quality criteria for coastal recreation waters, to publish in the Federal Register a list of all pathogens and pathogen indicators studied in the development of the new or revised water quality criteria.

*Sec. 10. Adoption of new or revised criteria or standards*

This section amends section 303(i)(2)(A) of the Clean Water Act to ensure that any new or revised water quality criteria for coastal recreation waters published by EPA are adopted by individual States.

*Sec. 11. National List of Beaches*

This section amends section 406(g)(3) of the Clean Water Act to require the Administrator to continuously update and revise the National List of Beaches.

*Sec. 12. Impact of climate change on pathogenic contamination of coastal recreational waters*

This section directs the EPA Administrator to undertake a study on the long-term impact of climate change on pathogenic contamination of coastal recreation waters, and upon completion of this study, to submit a report on the results to Congress.

*Sec. 13. Impact of excess nutrients on coastal recreation waters*

This section directs the Administrator to undertake a study on the impacts of excess nutrients on coastal recreation waters.

On May 12, 2008, the Subcommittee on Water Resources and Environment held a field hearing in Port Huron, Michigan, that focused on the impacts of nutrients on water quality in the Great Lakes area. This field hearing focused on how excessive nutrients, such as nitrogen and phosphorous, could result in harmful or nuisance algal blooms, reduced spawning grounds and nursery habitat, fish kills, and “dead zones” in the Great Lakes. The Subcommittee received testimony on huge rafts of algal blooms in the near shore waters of the Great Lakes that significantly affected the health of the near shore waters, and significantly impacted the utility of these waters for recreational purposes.

In the most recent National Water Quality Inventory: Report to Congress, States identified excessive nutrients as a key cause of water quality impairment for many streams, rivers, lakes, bays, and estuaries. For example, States identified that roughly 40 percent of assessed lakes, 22 percent of assessed bays and estuaries, and 15 percent of assessed rivers and streams were impaired as a result of excessive nutrients.

The Committee believes that the study called for in this section is a logical progression from that Subcommittee hearing. The Committee expects this study to inform any potential Congressional or administrative actions to address the negative impacts of excessive nutrients.

## ADDITIONAL MATTERS

In the 110th Congress, the Committee approved H.R. 2537, the “Beach Protection Act of 2007”, on October 31, 2007. H. Rept. 110–491. This legislation included language requiring the EPA Administrator to carry out a study of the formula for the distribution of coastal recreation water quality monitoring and notification program development and implementation grants under section 406(b) of the Clean Water Act.

On August 13, 2008, EPA published a notice in the Federal Register that the Agency was undertaking a study similar to that contained in H.R. 2537. According to EPA, the Agency is in the process of finalizing proposed changes to its grants distribution formula under the BEACH Act. The Committee expects EPA to complete its study and finalize the proposed changes to its BEACH Act grants distribution formula in a timely manner.

The Committee struck a provision from H.R. 2093, as introduced, that would have been a duplicative study to the study currently being carried out by EPA. The Committee will evaluate any proposed changes to the BEACH grant distribution formula proposed by EPA.

## LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, on May 24, 2007, Representative Frank Pallone introduced H.R. 2537, the “Beach Protection Act of 2007”. On July 12, 2007, the Subcommittee on Water Resources and Environment held a hearing on “Reauthorization of the Beaches Environmental Assessment and Coastal Health Act”. The Subcommittee heard received testimony from Representative Frank Pallone, Representative Brian Bilbray, the Environmental Protection Agency, the then-Commissioner of the New Jersey Department of Environmental Protection, Lisa P. Jackson, the Supervisor of the Town of Southampton, New York, the U.S. Government Accountability Office, and representatives of non-governmental organizations.

On October 31, 2007, the Committee on Transportation and Infrastructure ordered H.R. 2537, as amended, reported favorably to the House by voice vote with a quorum present. On December 12, 2007, the Committee reported the bill to the House. H. Rept. 110–491. On April 16, 2008, the House passed H.R. 2537 by a voice vote. No further action was taken on the bill.

In the 111th Congress, on April 23, 2009, Representative Frank Pallone introduced H.R. 2093, the “Clean Coastal Environment and Public Health Act of 2009”, which was modeled after H.R. 2537 from the 110th Congress.

On June 4, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 2093 and adopted an amendment in the nature of a substitute to the bill. The amendment in the nature of a substitute made the following changes to the underlying bill: (1) authorize the ability to use BEACH Act grants for coastal recreation water source tracking programs, on a discretionary basis; (2) reduce the authorization of appropriations from \$60 million annually to \$40 million annually; (3) revise the definition of “rapid testing method”, and direct the Administrator to periodically survey the state of rapid testing technologies and revise the standard for rapid testing methods, with a goal of valida-

tion of a methodology that can produce results within two hours by 2017; (4) strike a duplicative study on the BEACH Act grant distribution formula; and (5) add a study on the impact of excess nutrients on coastal recreation waters. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 2093 or ordering the bill reported. During consideration of H.R. 2093, the Committee adopted an amendment in the nature of a substitute by voice vote with a quorum present. A motion to order H.R. 2093, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to provide for the monitoring of coastal recreation water quality and public notification of any exceeding of applicable water quality standards at beaches or similar points of public access adjacent to coastal recreation waters.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 2093 from the Director of the Congressional Budget Office.



U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, June 10, 2009.

Hon. JAMES L. OBERSTAR,  
 Chairman, Committee on Transportation and Infrastructure,  
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2093, the Clean Coastal Environment and Public Health Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF,  
 Director.

Enclosure.

*H.R. 2093—Clean Coastal Environment and Public Health Act of 2009*

Summary: H.R. 2093 would authorize the appropriation of \$40 million a year over the 2010–2014 period for the water quality program that benefits coastal states under the Clean Water Act. Under this program, the Environmental Protection Agency (EPA) provides grants to state or local governments to support their efforts to monitor the quality of coastal waters and notify the public when beach water does not meet established standards. This legislation also would authorize the appropriation of such sums as may be necessary for EPA to manage the program through 2014.

Assuming the appropriation of the necessary funds, CBO estimates that implementing H.R. 2093 would cost \$17 million in 2010 and \$175 million over the 2010–2014 period. Enacting the bill would not affect direct spending or revenues.

H.R. 2093 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2093 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Administrative Support:						
Estimated Authorization Level .....	1	1	1	1	1	5
Estimated Outlays .....	1	1	1	1	1	5
Beach Protection Grants:						
Authorization Level .....	40	40	40	40	40	200
Estimated Outlays .....	16	34	40	40	40	170
Total Proposed Changes:						
Estimated Authorization Level .....	41	41	41	41	41	205
Estimated Outlays .....	17	35	41	41	41	175

Basis of estimate: For this estimate, CBO assumes that H.R. 2093 will be enacted near the end of fiscal year 2009, that the specified amounts will be appropriated in each year starting in 2010, and that outlays will follow historical spending patterns for the ex-

isting program. CBO estimates that implementing this legislation would cost about \$175 million over the next five years, including about \$5 million to administer the grant program.

Intergovernmental and private-sector impact: H.R. 2093 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2093, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (P.L. 104-4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2093 does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104-1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**FEDERAL WATER POLLUTION CONTROL ACT**

\* \* \* \* \*

**TITLE III—STANDARDS AND ENFORCEMENT**

\* \* \* \* \*

**WATER QUALITY STANDARDS AND IMPLEMENTATION PLANS**

**SEC. 303. (a) \* \* \***

\* \* \* \* \*

**(i) COASTAL RECREATION WATER QUALITY CRITERIA.—**

**(1) \* \* \***

**(2) FAILURE OF STATES TO ADOPT.—**

(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with [paragraph (1)(A)] *paragraph (1)* that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or new water quality standards for pathogens and pathogen indicators described in [paragraph (1)(A)] *paragraph (1)* for coastal recreation waters of the State.

\* \* \* \* \*

**INFORMATION AND GUIDELINES**

**SEC. 304. (a)(1) \* \* \***

\* \* \* \* \*

**(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—**

(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing [methods, as appropriate] *methods, including rapid testing methods*), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

\* \* \* \* \*

(C) *PUBLICATION OF PATHOGEN AND PATHOGEN INDICATOR LIST.—Upon publication of the new or revised water quality criteria under subparagraph (A), the Administrator*

*shall publish in the Federal Register a list of all pathogens and pathogen indicators studied under section 104(v).*

\* \* \* \* \*

TITLE IV—PERMITS AND LICENSES

\* \* \* \* \*

SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

(a) MONITORING AND NOTIFICATION.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

(A) monitoring and assessment (including specifying available **methods for monitoring** *protocols for monitoring that are most likely to detect pathogenic contamination*) 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) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

(1) \* \* \*

\* \* \* \* \*

(3) *SOURCE IDENTIFICATION PROGRAMS.*—*In carrying out a monitoring and notification program, a State or local government may develop and implement a coastal recreation waters pollution source identification and tracking program for coastal recreation waters adjacent to beaches or similar points of access that are used by the public and are not meeting applicable water quality standards for pathogens and pathogen indicators.*

**[(3)] (4) 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) \* \* \*

(ii) actions taken to notify the **public** *public and all environmental agencies of the State with authority to prevent or treat sources of pathogenic contamination in coastal recreation waters* when water quality standards are exceeded.

\* \* \* \* \*

**[(4)] (5) FEDERAL SHARE.—**

(A) \* \* \*

\* \* \* \* \*

(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 for monitoring and notification under this section shall identify—

(1) \* \* \*

\* \* \* \* \*

(4)(A) the **【methods】** *methods, including a rapid testing method after the last day of the one-year period following the date of validation of that rapid testing method by the Administrator, to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and*

\* \* \* \* \*

(5) measures for **【prompt communication】** *communication, within 24 hours of the receipt of the results of a water quality sample, 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)(i) in the case of any State in which the Administrator is administering the program under section 402, the Administrator, in such form as the Administrator determines to be appropriate; and*

*(ii) in the case of any State other than a State to which clause (i) applies, all agencies of the State government with authority to require the prevention or treatment of the sources of coastal recreation water pollution; and*

\* \* \* \* \*

(6) *measures for an annual report to the Administrator, in such form as the Administrator determines appropriate, on the occurrence, nature, location, pollutants involved, and extent of any exceeding of applicable water quality standards for pathogens and pathogen indicators;*

**【(6)】** (7) measures for **【the posting】** *the immediate 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)】** (8) 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**【.】**;

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

*(A) is publicly accessible and searchable on the Internet;*

*(B) is organized by beach or similar point of access;*

*(C) identifies applicable water quality standards, monitoring protocols, sampling plans and results, and the number and cause of coastal recreation water closures and advisory days; and*

*(D) is updated within 24 hours of the availability of revised information; and*

(10) *measures to ensure that closures or advisories are made or issued within 2 hours after the receipt of the results of a*

*water quality sample that exceeds applicable water quality standards for pathogens and pathogen indicators.*

\* \* \* \* \*

(g) LIST OF WATERS.—  
 (1) \* \* \*

\* \* \* \* \*

(3) UPDATES.—**[The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.]** *Within 12 months after the date of the enactment of the Clean Coastal Environment and Public Health Act of 2009, and biennially thereafter, the Administrator shall update the list described in paragraph (1).*

(h) EPA IMPLEMENTATION.—**[In the]**  
 (1) *IN GENERAL.—In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a monitoring and notification program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—*

- [(1)]** *(A) to conduct monitoring and notification; and*
- [(2)]** *(B) for related salaries, expenses, and travel.*

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

- (A) prepare a written assessment of compliance with all statutory and regulatory requirements of this section for each State and local government and of compliance with conditions of each grant made under this section to a State or local government;*
- (B) notify the State or local government of such assessment; and*
- (C) make each of the assessments available to the public in a searchable database on the Internet on or before December 31 of such calendar year.*

(3) *CORRECTIVE ACTION.—If a State or local government that the Administrator notifies under paragraph (2) is not in compliance with any requirement or grant condition described in paragraph (2) fails to take such action as may be necessary to comply with such requirement or condition within one year after the date of notification, any grants made under subsection (b) to the State or local government, after the last day of such one-year period and while the State or local government is not in compliance with all requirements and grant conditions described in paragraph (2), shall have a Federal share of not to exceed 50 percent.*

(4) *GAO REVIEW.—Not later than December 31 of the third calendar year beginning after the date of enactment of this paragraph, the Comptroller General shall conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after such*

*date of enactment and submit to Congress a report on the results of such review.*

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (h), **[\$30,000,000 for each of fiscal years 2001 through 2005]** *\$40,000,000 for each of fiscal years 2010 through 2014.*

**TITLE V—GENERAL PROVISIONS**

\* \* \* \* \*

**GENERAL DEFINITIONS**

SEC. 502. Except as otherwise specifically provided, when used in this Act:

(1) \* \* \*

\* \* \* \* \*

(26) *RAPID TESTING METHOD.*—*The term “rapid testing method” means 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 the commencement of the rapid testing method in the laboratory.*

\* \* \* \* \*

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**BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT OF 2000**

\* \* \* \* \*

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

There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through **[2005]** *2014.*