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1ST SESSION

# H. R. 2093

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IN THE SENATE OF THE UNITED STATES

JULY 30, 2009

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Read twice and referred to the Committee on Environment and Public Works

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## AN ACT

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Clean Coastal Environ-  
3   ment and Public Health Act of 2009”.

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

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

10       (b) **SOURCE TRACKING.**—Section 406(b) of such Act  
11   (33 U.S.C. 1346(b)) is amended—

12           (1) by redesignating paragraphs (3) and (4) as  
13       paragraphs (4) and (5), respectively; and

14           (2) by inserting after paragraph (2) the fol-  
15       lowing:

16           “(3) **SOURCE IDENTIFICATION PROGRAMS.**—In  
17       carrying out a monitoring and notification program,  
18       a State or local government may develop and imple-  
19       ment a coastal recreation waters pollution source  
20       identification and tracking program for coastal  
21       recreation waters adjacent to beaches or similar  
22       points of access that are used by the public and are  
23       not meeting applicable water quality standards for  
24       pathogens and pathogen indicators.”.

25       (c) **AUTHORIZATION OF APPROPRIATIONS.**—Section  
26   406(i) of such Act (33 U.S.C. 1346(i)) is amended by

1 striking “\$30,000,000 for each of fiscal years 2001  
2 through 2005” and inserting “\$40,000,000 for each of fis-  
3 cal years 2010 through 2014”.

4 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**  
5 **MENT AND COASTAL HEALTH ACT.**

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

9 **SEC. 4. STATE REPORTS.**

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

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

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

24 (b) REVISED CRITERIA.—Section 304(a)(9)(A) of  
25 such Act (33 U.S.C. 1314(a)(9)(A)) is amended by strik-

1 ing “methods, as appropriate” and inserting “methods, in-  
2 cluding rapid testing methods”.

3 (c) VALIDATION AND USE OF RAPID TESTING METH-  
4 ODS.—

5 (1) VALIDATION OF RAPID TESTING METH-  
6 ODS.—Not later than October 15, 2012, the Admin-  
7 istrator of the Environmental Protection Agency (in  
8 this Act referred to as the “Administrator”) shall  
9 complete an evaluation and validation of a rapid  
10 testing method for the water quality criteria and  
11 standards for pathogens and pathogen indicators de-  
12 scribed in section 304(a)(9)(A) of the Federal Water  
13 Pollution Control Act (33 U.S.C. 1314(a)(9)(A)).

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

16 (A) IN GENERAL.—Not later than 180  
17 days after completion of the validation under  
18 paragraph (1), and after providing notice and  
19 an opportunity for public comment, the Admin-  
20 istrator shall publish guidance for the use at  
21 coastal recreation waters adjacent to beaches or  
22 similar points of access that are used by the  
23 public of the rapid testing method that will en-  
24 hance the protection of public health and safety  
25 through rapid public notification of any exceed-

1 ing of applicable water quality standards for  
2 pathogens and pathogen indicators.

3 (B) PRIORITIZATION.—In developing such  
4 guidance, the Administrator shall require the  
5 use of the rapid testing method at those beach-  
6 es or similar points of access that are the most  
7 used by the public.

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

11 “(26) RAPID TESTING METHOD.—The term  
12 ‘rapid testing method’ means a method of testing  
13 the water quality of coastal recreation waters for  
14 which results are available as soon as practicable  
15 and not more than 6 hours after the commencement  
16 of the rapid testing method in the laboratory.”.

17 (e) REVISIONS TO RAPID TESTING METHODS.—

18 (1) IN GENERAL.—Upon completion of the vali-  
19 dation required under subsection (c)(1), and every 5  
20 years thereafter, the Administrator shall identify  
21 and review potential rapid testing methods for exist-  
22 ing water quality criteria for pathogens and patho-  
23 gen indicators for coastal recreation waters.

24 (2) REVISIONS TO RAPID TESTING METHODS.—

25 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

1 24 hours of the receipt of the results of a water  
2 quality sample,”;

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

4 (A) by inserting “(i) in the case of any  
5 State in which the Administrator is admin-  
6 istering the program under section 402,” before  
7 “the Administrator” the first place it appears;  
8 and

9 (B) by inserting at the end the following:

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

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

17 (4) by inserting after paragraph (5) the fol-  
18 lowing:

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

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

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

4 (1) in paragraph (7) (as redesignated by section  
5 6(3) of this Act)—

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

8 (B) by striking “and” at the end;

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

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

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

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

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

21 “(C) identifies applicable water quality  
22 standards, monitoring protocols, sampling plans  
23 and results, and the number and cause of coast-  
24 al recreation water closures and advisory days;  
25 and



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

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

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

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

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

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

15 (3) by striking “In the” and inserting the fol-  
16 lowing:

17 “(1) IN GENERAL.—In the”; and

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

19 “(2) COMPLIANCE REVIEW.—On or before July  
20 31 of each calendar year beginning after the date of  
21 enactment of this paragraph, the Administrator  
22 shall—

23 “(A) prepare a written assessment of com-  
24 pliance with all statutory and regulatory re-  
25 quirements of this section for each State and

1 local government and of compliance with condi-  
2 tions of each grant made under this section to  
3 a State or local government;

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

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

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

23 “(4) GAO REVIEW.—Not later than December  
24 31 of the third calendar year beginning after the  
25 date of enactment of this paragraph, the Comp-

1 troller General shall conduct a review of the activi-  
2 ties of the Administrator under paragraphs (2) and  
3 (3) during the first and second calendar years begin-  
4 ning after such date of enactment and submit to  
5 Congress a report on the results of such review.”.

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

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

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

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

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

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

2 Section 406(g)(3) of the Federal Water Pollution  
3 Control Act (33 U.S.C. 1346(g)(3)) is amended by strik-  
4 ing “The Administrator” and all that follows through the  
5 period and inserting “Within 12 months after the date of  
6 the enactment of the Clean Coastal Environment and Pub-  
7 lic Health Act of 2009, and biennially thereafter, the Ad-  
8 ministrator shall update the list described in paragraph  
9 (1).”.

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

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

16 (b) REPORT.—

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

21 (2) INFORMATION ON POTENTIAL CONTAMI-  
22 NANT IMPACTS.—The report shall include informa-  
23 tion on the potential impacts of pathogenic contami-  
24 nation on ground and surface water resources as  
25 well as public and ecosystem health in coastal com-  
26 munities.

1           (3) MONITORING.—The report shall address  
2       monitoring required to document and assess chang-  
3       ing conditions of coastal water resources, rec-  
4       reational waters, and ecosystems and review the cur-  
5       rent ability to assess and forecast impacts associated  
6       with long-term change.

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

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

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

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

24          (b) REPORT.—

1           (1) IN GENERAL.—Not later than one year  
2       after the date of enactment of this Act, the Adminis-  
3       trator shall transmit to the Committee on Transpor-  
4       tation and Infrastructure of the House of Represent-  
5       atives and the Committee on Environment and Pub-  
6       lic Works of the Senate a report on the results of  
7       the study conducted under subsection (a).

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

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

19          (4) CONSULTATION.—In developing such re-  
20      port, the Administrator shall consult with the heads  
21      of other appropriate Federal agencies (including the

- 1 National Oceanic and Atmospheric Administration),
- 2 States, and local government entities.

Passed the House of Representatives July 29, 2009.

Attest: LORRAINE C. MILLER,  
*Clerk.*