

114TH CONGRESS  
1ST SESSION

# H. R. 4136

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 30, 2015

Mr. PALLONE (for himself and Mrs. CAPPES) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Beach Act of 2015”.

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

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

1 (b) SOURCE TRACKING.—Section 406(b) of such Act  
2 (33 U.S.C. 1346(b)) is amended by adding at the end the  
3 following:

4 “(5) CONTENTS OF MONITORING AND NOTIFI-  
5 CATION PROGRAMS.—For the purposes of this sec-  
6 tion, a program for monitoring, assessment, and no-  
7 tification shall include, consistent with performance  
8 criteria published by the Administrator under sub-  
9 section (a), monitoring, public notification, storm  
10 event testing, source tracking, and sanitary surveys,  
11 and may include prevention efforts, not already  
12 funded under this Act to address identified sources  
13 of contamination by pathogens and pathogen indica-  
14 tors in coastal recreation waters adjacent to beaches  
15 or similar points of access that are used by the pub-  
16 lic.”.

17 (c) AUTHORIZATION OF APPROPRIATIONS.—Section  
18 406(i) of such Act (33 U.S.C. 1346(i)) is amended by  
19 striking “2001 through 2005” and inserting “2016  
20 through 2020”.

21 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**  
22 **MENT AND COASTAL HEALTH ACT.**

23 Section 8 of the Beaches Environmental Assessment  
24 and Coastal Health Act of 2000 (Public Law 106–284)  
25 is amended by striking “2005” and inserting “2018”.

1 **SEC. 4. STATE REPORTS.**

2 Section 406(b)(3)(A)(ii) of the Federal Water Pollu-  
3 tion Control Act (33 U.S.C. 1346(b)(3)(A)(ii)) is amended  
4 by striking “public” and inserting “public and all environ-  
5 mental agencies of the State with authority to prevent or  
6 treat sources of pathogenic contamination in coastal recre-  
7 ation waters”.

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

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

16 (b) REVISED CRITERIA.—Section 304(a)(9)(A) of  
17 such Act (33 U.S.C. 1314(a)(9)(A)) is amended by strik-  
18 ing “methods, as appropriate” and inserting “methods, in-  
19 cluding rapid testing methods”.

20 (c) VALIDATION AND USE OF RAPID TESTING METH-  
21 ODS.—

22 (1) VALIDATION OF RAPID TESTING METH-  
23 ODS.—Not later than 6 months after the date of en-  
24 actment of this Act, the Administrator of the Envi-  
25 ronmental Protection Agency (in this Act referred to  
26 as the “Administrator”) shall complete an evaluation

1 and validation of a rapid testing method for the  
2 water quality criteria and standards for pathogens  
3 and pathogen indicators described in section  
4 304(a)(9)(A) of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1314(a)(9)(A)).

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

8 (A) IN GENERAL.—Not later than 180  
9 days after completion of the validation under  
10 paragraph (1), after providing notice and an  
11 opportunity for public comment, the Adminis-  
12 trator shall publish guidance for the use at  
13 coastal recreation waters adjacent to beaches or  
14 similar points of access that are used by the  
15 public of a rapid testing method that will en-  
16 hance the protection of public health and safety  
17 through rapid public notification of any exceed-  
18 ance of applicable water quality standards for  
19 pathogens and pathogen indicators.

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

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

4 “(27) RAPID TESTING METHOD.—The term  
5 ‘rapid testing method’ means a method of testing  
6 the water quality of coastal recreation waters for  
7 which results are available as soon as practicable  
8 and not more than 4 hours after receipt of the appli-  
9 cable sample by the testing facility.”.

10 (e) REVISIONS TO RAPID TESTING METHODS.—

11 (1) IN GENERAL.—Upon completion of the vali-  
12 dation required under subsection (c)(1), and every 5  
13 years thereafter, the Administrator shall identify  
14 and review potential rapid testing methods for exist-  
15 ing water quality criteria for pathogens and patho-  
16 gen indicators for coastal recreation waters.

17 (2) REVISIONS TO RAPID TESTING METHODS.—

18 If a rapid testing method identified under paragraph  
19 (1) will make results available in less time and im-  
20 prove the accuracy and reproducibility of results  
21 when compared to the existing rapid testing method,  
22 the Administrator shall complete an evaluation and  
23 validation of the rapid testing method as expedi-  
24 tiously as practicable.

1           (3) REPORTING REQUIREMENT.—Upon comple-  
2           tion of the review required under paragraph (1), the  
3           Administrator shall publish in the Federal Register  
4           the results of the review, including information on  
5           any potential rapid testing method proposed for  
6           evaluation and validation under paragraph (2).

7           (4) DECLARATION OF GOALS FOR RAPID TEST-  
8           ING METHODS.—It is a national goal that by 2019,  
9           a rapid testing method for testing water quality of  
10          coastal recreation waters be developed that can  
11          produce accurate and reproducible results in not  
12          more than 2 hours after receipt of the applicable  
13          sample.

14 **SEC. 6. NOTIFICATION OF FEDERAL, STATE, AND LOCAL**  
15 **AGENCIES.**

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

18               (1) in paragraph (5), in the matter preceding  
19               subparagraph (A), by striking “prompt communica-  
20               tion” and inserting “communication, within 2 hours  
21               of the receipt of the results of a water quality sam-  
22               ple,”;

23               (2) by striking paragraph (5)(A) and inserting  
24               the following:

25                       “(A) in the case of—

1           “(i) any State in which the Adminis-  
2           trator is administering the program under  
3           section 402, the Administrator, in such  
4           form as the Administrator determines to  
5           be appropriate; and

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

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

13          (4) by inserting after paragraph (5) the fol-  
14          lowing:

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

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

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

24               (1) in paragraph (7) (as redesignated by section  
25               (6)(3) of this Act)—

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

3 (B) by striking “and” at the end;

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

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

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

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

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

16 “(C) identifies applicable water quality  
17 standards, monitoring protocols, sampling plans  
18 and results, and the number and cause of coast-  
19 al recreation water closures and advisory days;  
20 and

21 “(D) is updated within 12 hours of the  
22 availability of information indicating the pres-  
23 ence of pathogens or pathogen indicators; and

24 “(10) measures to ensure that closures or  
25 advisories are made or issued within 2 hours after



1 the receipt of the results of a water quality sample  
2 that exceeds applicable water quality standards for  
3 pathogens and pathogen indicators.”.

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

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

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

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

11 (3) by striking “In the” and inserting the fol-  
12 lowing:

13 “(1) IN GENERAL.—In the”; and

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

15 “(2) COMPLIANCE REVIEW.—On or before July  
16 31 of each calendar year beginning after the date of  
17 enactment of this paragraph, the Administrator  
18 shall—

19 “(A) prepare a written assessment of com-  
20 pliance with all statutory and regulatory re-  
21 quirements of this section for each State and  
22 local government and of compliance with condi-  
23 tions of each grant made under this section to  
24 a State or local government;

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

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

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

20           “(4) GAO REVIEW.—Not later than December  
21 31 of the third calendar year beginning after the  
22 date of enactment of this paragraph, the Comp-  
23 troller General shall conduct a review of the activi-  
24 ties of the Administrator under paragraphs (2) and  
25 (3) during the first and second calendar years begin-

1       ning after such date of enactment and submit to  
2       Congress a report on the results of such review.”.

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

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

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

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

17       Section 303(i) of the Federal Water Pollution Control  
18   Act (33 U.S.C. 1313(i)) is amended—

19                  (1) in paragraph (1)(A), by striking “water  
20                  quality criteria and standards” and inserting “the  
21                  most protective water quality criteria and standards  
22                  practicable”; and

23                  (2) in paragraph (2)(A), by striking “paragraph  
24                  (1)(A)” each place it appears and inserting “para-  
25                  graph (1)”.

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

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

4 (1) in paragraph (1), by inserting “, regardless  
5 of the presence of a lifeguard,” after “that are used  
6 by the public”; and

7 (2) in paragraph (3), by striking “The Adminis-  
8 trator” and all that follows through the period and  
9 inserting “Not later than 12 months after the date  
10 of the enactment of the Beach Act of 2015, and bi-  
11 ennially thereafter, the Administrator shall update  
12 the list described in paragraph (1).”.

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

16 (a) **STUDY.**—The Administrator shall conduct a  
17 study on the long-term impact of climate change on patho-  
18 genic contamination of coastal recreation waters.

19 (b) **REPORT.**—

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

24 (2) **INFORMATION ON POTENTIAL CONTAMINA-**  
25 **TION IMPACTS.**—The report shall include informa-  
26 tion on the potential impacts of pathogenic contami-

1 nation on ground and surface water resources as  
2 well as public and ecosystem health in coastal com-  
3 munities.

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

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

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

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

21 (b) REPORT.—

22 (1) IN GENERAL.—Not later than one year  
23 after the date of enactment of this Act, the Adminis-  
24 trator shall transmit to the Committee on Transpor-  
25 tation and Infrastructure of the House of Represent-

1       atives and the Committee on Environment and Pub-  
2       lic Works of the Senate a report on the results of  
3       the study conducted under subsection (a).

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

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

15          (4) CONSULTATION.—In developing such re-  
16      port, the Administrator shall consult with the heads  
17      of other appropriate Federal agencies (including the  
18      National Oceanic and Atmospheric Administration),  
19      States, and local government entities.

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