

**Calendar No. 353**

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 878**

**[Report No. 111–170]**

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

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IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Mr. LAUTENBERG (for himself, Mr. VOINOVICH, Mr. MENENDEZ, Mrs. BOXER, Mrs. FEINSTEIN, Mr. WHITEHOUSE, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

APRIL 20, 2010

Reported by Mrs. BOXER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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**A BILL**

To amend the Federal Water Pollution Control Act to modify provisions 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. FEDERAL WATER POLLUTION CONTROL ACT**  
5 **AMENDMENTS.**

6       (a) **ADOPTION OF NEW OR REVISED CRITERIA AND**  
7 **STANDARDS.**—Section 303(i)(2)(A) of the Federal Water  
8 Pollution Control Act (33 U.S.C. 1313(i)(2)(A)) is amend-  
9 ed by striking “paragraph (1)(A)” each place it appears  
10 and inserting “paragraph (1)”.

11       (b) **REVISED CRITERIA FOR COASTAL RECREATION**  
12 **WATERS.**—Section 304(a)(9) of the Federal Water Pollu-  
13 tion Control Act (33 U.S.C. 1314(a)(9)) is amended—

14               (1) in subparagraph (A), by striking “methods;  
15 as appropriate” and inserting “methods, including  
16 the use of rapid testing methods”; and

17               (2) by adding at the end the following:

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

25       (c) **SOURCE IDENTIFICATION.**—

1           (1)       MONITORING       PROTOCOLS.—Section  
 2       406(a)(1)(A) of the Federal Water Pollution Control  
 3       Act (~~33 U.S.C. 1346(a)(1)(A)~~) is amended by strik-  
 4       ing “methods for monitoring” and inserting “meth-  
 5       ods for monitoring protocols that are most likely to  
 6       detect pathogenic contamination”.

7           (2) STATE REPORTS; SOURCE TRACKING.—Sec-  
 8       tion 406(b) of the Federal Water Pollution Control  
 9       Act (~~33 U.S.C. 1346(b)~~) is amended—

10           (A) in paragraph ~~(3)~~(A)(ii), by striking  
 11       “public” and inserting “public and all environ-  
 12       mental agencies of the State with authority to  
 13       prevent or treat sources of pathogenic contami-  
 14       nation in coastal recreation waters”; and

15           (B) by adding at the end the following:

16       “~~(5)~~ CONTENTS OF MONITORING AND NOTIFI-  
 17       CATION PROGRAMS.—For the purposes of this sec-  
 18       tion, a program for monitoring and notification shall  
 19       include monitoring consistent with the performance  
 20       criteria published by the Administrator under sub-  
 21       section (a), public notification, source tracking, sani-  
 22       tary surveys, and prevention efforts to address iden-  
 23       tified sources of contamination by pathogens and  
 24       pathogen indicators in coastal recreation waters ad-

1        jacent to beaches or similar points of access that are  
 2        used by the public.”.

3        ~~(d) USE OF RAPID TESTING METHODS.—~~

4                ~~(1) CONTENTS OF STATE AND LOCAL GOVERN-~~  
 5        ~~MENT PROGRAMS.—~~Section 406(e)(4)(A) of the Fed-  
 6        eral Water Pollution Control Act (~~33 U.S.C.~~  
 7        ~~1346(e)(4)(A)~~) is amended by striking “methods”  
 8        and inserting “methods, including the use of a rapid  
 9        testing method after the last day of the 1-year pe-  
 10        riod following the date of validation of that rapid  
 11        testing method by the Administrator,”.

12               ~~(2) VALIDATION AND USE OF RAPID TESTING~~  
 13        ~~METHODS.—~~

14                ~~(A) VALIDATION OF RAPID TESTING METH-~~  
 15        ~~ODS.—~~Not later than October 15, 2012, the  
 16        Administrator of the Environmental Protection  
 17        Agency (referred to in this Act as the “Admin-  
 18        istrator”) shall complete an evaluation and vali-  
 19        dation of a rapid testing method for the water  
 20        quality criteria and standards for pathogens  
 21        and pathogen indicators described in section  
 22        ~~303(i)(1)(A)~~ of the Federal Water Pollution  
 23        Control Act (~~33 U.S.C. 1313(i)(1)(A)~~).

24                ~~(B) GUIDANCE FOR USE OF RAPID TEST-~~  
 25        ~~ING METHODS.—~~

(i) IN GENERAL.—Not later than 180 days after the date of completion of the validation under subparagraph (A), 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 rapid testing methods that will enhance the protection of public health and safety through rapid public notification of any exceedance of applicable water quality standards for pathogens and pathogen indicators.

(ii) PRIORITIZATION.—In developing guidance under clause (i), the Administrator shall require the use of rapid testing methods at those beaches or similar points of access that are the most used by the public.

(3) DEFINITION OF RAPID TESTING METHOD.—

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

1           “(26) ~~RAPID TESTING METHOD.~~—The term  
 2       ‘rapid testing method’ means a method of testing  
 3       the water quality of coastal recreation waters for  
 4       which results are available as soon as practicable  
 5       and not more than 2 hours after the commencement  
 6       of the rapid testing method.”.

7       ~~(e) NOTIFICATION OF FEDERAL, STATE, AND LOCAL~~  
 8       ~~AGENCIES; CONTENT OF STATE AND LOCAL PRO-~~  
 9       ~~GRAMS.~~—Section 406(c) of the Federal Water Pollution  
 10      Control Act (33 U.S.C. 1346(c)) is amended—

11           (1) in paragraph (5)—

12                   (A) in the matter preceding subparagraph  
 13           (A), by striking “prompt communication” and  
 14           inserting “communication, within 2 hours of the  
 15           receipt of the results of a water quality sam-  
 16           ple,”;

17                   (B) by striking subparagraph (A) and in-  
 18           serting the following:

19                   “(A)(i) in the case of any State in which  
 20           the Administrator is administering the program  
 21           under section 402, the Administrator, in such  
 22           form as the Administrator determines to be ap-  
 23           propriate; and

24                   “(ii) in the case of any State other than a  
 25           State to which clause (i) applies, all agencies of

1 the State government with authority to require  
 2 the prevention or treatment of the sources of  
 3 coastal recreation water pollution; and”;

4 (2) by redesignating paragraphs (6) and (7) as  
 5 paragraphs (7) and (8), respectively;

6 (3) by inserting after paragraph (5) the fol-  
 7 lowing:

8 “(6) measures for an annual report to the Ad-  
 9 ministrator, in such form as the Administrator de-  
 10 termines to be appropriate, on the occurrence, na-  
 11 ture, location, pollutants involved, and extent of any  
 12 exceedance of applicable water quality standards for  
 13 pathogens and pathogen indicators;”;

14 (4) in paragraph (7) (as redesignated by para-  
 15 graph (2))—

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

18 (B) by striking “and” at the end;

19 (5) in paragraph (8) (as redesignated by para-  
 20 graph (2)), by striking the period at the end and in-  
 21 serting a semicolon; and

22 (6) by adding at the end the following:

23 “(9) the availability of a geographical informa-  
 24 tion system database that the State or local govern-

ment 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;

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

“(11) measures that inform the public of identified sources of pathogenic contamination; and

“(12) analyses of monitoring protocols to determine which protocols are most likely to detect pathogenic contamination.”.

(f) NATIONAL LIST OF BEACHES.—Section 406(g) of the Federal Water Pollution Control Act (33 U.S.C.



1 ~~1346(g))~~ is amended by striking paragraph (3) and insert-  
 2 ing the following:

3           “(3) ~~UPDATES.~~—Not later than 1 year after  
 4 the date of enactment of the Clean Coastal Environ-  
 5 ment and Public Health Act of 2009, and biennially  
 6 thereafter, the Administrator shall update the list  
 7 described in paragraph (1).”.

8           (g) ~~COMPLIANCE REVIEW.~~—Section 406(h) of the  
 9 Federal Water Pollution Control Act (~~33 U.S.C. 1346(h)~~)  
 10 is amended—

11           (1) by redesignating paragraphs (1) and (2) as  
 12 subparagraphs (A) and (B), respectively, and indent-  
 13 ing the subparagraphs appropriately;

14           (2) by striking “In the” and inserting the fol-  
 15 lowing:

16           “(1) ~~IN GENERAL.~~—In the”; and

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

18           “(2) ~~COMPLIANCE REVIEW.~~—On or before July  
 19 31 of each calendar year beginning after the date of  
 20 enactment of the Clean Coastal Environment and  
 21 Public Health Act of 2009, the Administrator  
 22 shall—

23           “(A) prepare a written assessment of com-  
 24 pliance with—

1           “(i) all statutory and regulatory re-  
2           quirements of this section for each State  
3           and local government; and

4           “(ii) conditions of each grant made  
5           under this section to a State or local gov-  
6           ernment;

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

9           “(C) make each of the assessments avail-  
10          able to the public in a searchable database on  
11          the Internet on or before December 31 of the  
12          applicable calendar year.

13          “(3) CORRECTIVE ACTION.—If a State or local  
14          government that the Administrator notifies under  
15          paragraph (2) is not in compliance with any require-  
16          ment or grant condition described in paragraph (2)  
17          and fails to take such action as is necessary to com-  
18          ply with the requirement or condition by the date  
19          that is 1 year after the date of notification, any  
20          grants made under subsection (b) to the State or  
21          local government, after the last day of that 1-year  
22          period and while the State or local government is  
23          not in compliance with all requirements and grant  
24          conditions described in paragraph (2), shall have a  
25          Federal share of not to exceed 50 percent.

1           “(4) GAO REVIEW.—Not later than December  
2           31 of the third calendar year beginning after the  
3           date of enactment of the Clean Coastal Environment  
4           and Public Health Act of 2009, the Comptroller  
5           General shall—

6                   “(A) conduct a review of the activities of  
7                   the Administrator under paragraphs (2) and  
8                   (3) during the first and second calendar years  
9                   beginning after that date of enactment; and

10                   “(B) submit to Congress a report on the  
11                   results of the review.”.

12           (h) AUTHORIZATION OF APPROPRIATIONS.—Section  
13           406(i) of the Federal Water Pollution Control Act (33  
14           U.S.C. 1346(i)) is amended by striking “\$30,000,000 for  
15           each of fiscal years 2001 through 2005” and inserting  
16           “\$60,000,000 for each of fiscal years 2009 through  
17           2013”.

18           **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**  
19                   **MENT AND COASTAL HEALTH ACT.**

20           Section 8 of the Beaches Environmental Assessment  
21           and Coastal Health Act of 2000 (114 Stat. 877) is amend-  
22           ed by striking “2005” and inserting “2013”.

23           **SEC. 4. STUDY OF GRANT DISTRIBUTION FORMULA.**

24           (a) STUDY.—Not later than 30 days after the date  
25           of enactment of this Act, the Administrator shall com-

1 mence a study of the formula for the distribution of grants  
2 under section 406 of the Federal Water Pollution Control  
3 Act (33 U.S.C. 1346) for the purpose of identifying poten-  
4 tial revisions of that formula.

5 (b) CONTENTS.—In conducting the study, the Ad-  
6 ministrator shall consider—

7 (1) the base cost to States of developing and  
8 maintaining water quality monitoring and notifica-  
9 tion programs;

10 (2) the various beach monitoring and notifica-  
11 tion needs of each State, including beach mileage,  
12 beach usage, and length of beach season; and

13 (3) such other factors as the Administrator de-  
14 termines to be appropriate.

15 (c) CONSULTATION.—In conducting the study, the  
16 Administrator shall consult with appropriate Federal,  
17 State, and local agencies.

18 (d) REPORT.—Not later than 1 year after the date  
19 of enactment of this Act, the Administrator shall submit  
20 to the Committee on Environment and Public Works of  
21 the Senate and the Committee on Transportation and In-  
22 frastructure of the House of Representatives a report on  
23 the results of the study, including any recommendations  
24 for revision of the distribution formula referred to in sub-  
25 section (a).

1 **SEC. 5. IMPACT OF CLIMATE CHANGE ON POLLUTION OF**  
2 **COASTAL RECREATION WATERS.**

3 (a) **STUDY.**—The Administrator shall conduct a  
4 study on the long-term impact of climate change on pollu-  
5 tion of coastal recreation waters.

6 (b) **REPORT.**—

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

11 (2) **INFORMATION ON POTENTIAL CONTAMI-**  
12 **NANT IMPACTS.**—The report shall include informa-  
13 tion on potential contaminant impacts on—

14 (A) ground and surface water resources;  
15 and

16 (B) public and ecosystem health in coastal  
17 communities.

18 (3) **MONITORING.**—The report shall—

19 (A) address monitoring required to docu-  
20 ment and assess changing conditions of coastal  
21 water resources, recreational waters, and eco-  
22 systems; and

23 (B) review the current ability to assess and  
24 forecast impacts associated with long-term  
25 change.

1           (4) ~~FEDERAL ACTIONS.~~—The report shall high-  
 2           light necessary Federal actions to help advance the  
 3           availability of information and tools to assess and  
 4           mitigate the impacts and effects described in para-  
 5           graphs (2) and (3) in order to protect public and  
 6           ecosystem health.

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

13 **SEC. 6. IMPACT OF ALGAE ON COASTAL RECREATION WA-**  
 14 **TERS.**

15          (a) ~~STUDY.~~—Not later than 1 year after the date of  
 16          enactment of this Act, the Administrator shall submit to  
 17          Congress a study on the impact of algae on coastal recre-  
 18          ation waters.

19          (b) ~~CONTENT.~~—In preparing the study under this  
 20          section, the Administrator shall—

21                 (1) quantify the levels of algae that cause prob-  
 22                 lems at recreational beaches;

23                 (2) quantify the concentrations of phosphorus  
 24                 that may be associated with algae problems;

- 1           (3) provide recommendations with respect to  
 2           whether targets of the International Joint Commis-  
 3           sion for phosphorus in the Great Lakes should be  
 4           updated; and
- 5           (4) propose numerical water quality criteria for  
 6           phosphorus in the Great Lakes.

7   **SECTION 1. SHORT TITLE.**

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

10   **SEC. 2. FEDERAL WATER POLLUTION CONTROL ACT**  
 11           **AMENDMENTS.**

12           (a) *ADOPTION OF NEW OR REVISED CRITERIA AND*  
 13           *STANDARDS.—Section 303(i)(2)(A) of the Federal Water*  
 14           *Pollution Control Act (33 U.S.C. 1313(i)(2)(A)) is amended*  
 15           *by striking “paragraph (1)(A)” each place it appears and*  
 16           *inserting “paragraph (1)”.*

17           (b) *REVISED CRITERIA FOR COASTAL RECREATION*  
 18           *WATERS.—Section 304(a)(9) of the Federal Water Pollu-*  
 19           *tion Control Act (33 U.S.C. 1314(a)(9)) is amended—*

20                   (1) *in subparagraph (A), by striking “methods,*  
 21                   *as appropriate” and inserting “methods, including*  
 22                   *rapid testing methods”; and*

23                   (2) *by adding at the end the following:*

24                           “(C) *PUBLICATION OF PATHOGEN AND*  
 25                           *PATHOGEN INDICATOR LIST.—Upon publication*

1        *of the new or revised water quality criteria*  
 2        *under subparagraph (A), the Administrator shall*  
 3        *publish in the Federal Register a list of all*  
 4        *pathogens and pathogen indicators studied in de-*  
 5        *veloping the new or revised water quality cri-*  
 6        *teria.”.*

7        *(c) SOURCE IDENTIFICATION.—*

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

14           *(2) STATE REPORTS; SOURCE TRACKING.—Sec-*  
 15       *tion 406(b) of the Federal Water Pollution Control*  
 16       *Act (33 U.S.C. 1346(b)) is amended—*

17           *(A) in paragraph (3)(A)(ii), by striking*  
 18       *“public” and inserting “public and all environ-*  
 19       *mental agencies of the State with authority to*  
 20       *prevent or treat sources of pathogenic contami-*  
 21       *nation in coastal recreation waters”; and*

22           *(B) by adding at the end the following:*

23           *“(5) CONTENTS OF MONITORING AND NOTIFICA-*  
 24       *TION PROGRAMS.—For the purposes of this section, a*  
 25       *program for monitoring, assessment, and notification*



1     *shall include, consistent with performance criteria*  
 2     *published by the Administrator under subsection (a),*  
 3     *monitoring, public notification, source tracking, and*  
 4     *sanitary surveys, and may include prevention efforts,*  
 5     *not already funded under this Act to address identi-*  
 6     *fied sources of contamination by pathogens and*  
 7     *pathogen indicators in coastal recreation waters adja-*  
 8     *cent to beaches or similar points of access that are*  
 9     *used by the public.”.*

10     *(d) USE OF RAPID TESTING METHODS.—*

11             *(1) CONTENTS OF STATE AND LOCAL GOVERN-*  
 12     *MENT PROGRAMS.—Section 406(c)(4)(A) of the Fed-*  
 13     *eral Water Pollution Control Act (33 U.S.C.*  
 14     *1346(c)(4)(A)) is amended by striking “methods” and*  
 15     *inserting “methods, including a rapid testing method*  
 16     *after the last day of the 1-year period following the*  
 17     *date of validation of that rapid testing method by the*  
 18     *Administrator,”.*

19             *(2) VALIDATION AND USE OF RAPID TESTING*  
 20     *METHODS.—*

21             *(A) VALIDATION OF RAPID TESTING METH-*  
 22     *ODS.—Not later than October 15, 2012, the Ad-*  
 23     *ministrator of the Environmental Protection*  
 24     *Agency (referred to in this Act as the “Adminis-*  
 25     *trator”) shall complete an evaluation and vali-*

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

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

8                *(i) IN GENERAL.—Not later than 180*  
 9        *days after the date of completion of the vali-*  
 10        *dation under subparagraph (A), and after*  
 11        *providing notice and an opportunity for*  
 12        *public comment, the Administrator shall*  
 13        *publish guidance for the use at coastal*  
 14        *recreation waters adjacent to beaches or*  
 15        *similar points of access that are used by the*  
 16        *public of rapid testing methods that will en-*  
 17        *hance the protection of public health and*  
 18        *safety through rapid public notification of*  
 19        *any exceedance of applicable water quality*  
 20        *standards for pathogens and pathogen indi-*  
 21        *cators.*

22                *(ii) PRIORITIZATION.—In developing*  
 23        *guidance under clause (i), the Adminis-*  
 24        *trator shall require the use of rapid testing*  
 25        *methods at those beaches or similar points*

1                   of access that are the most used by the pub-  
2                   lic.

3                   (3) *DEFINITION OF RAPID TESTING METHOD.*—  
4                   Section 502 of the Federal Water Pollution Control  
5                   Act (33 U.S.C. 1362) is amended by adding at the  
6                   end the following:

7                   “(26) *RAPID TESTING METHOD.*—The term  
8                   ‘rapid testing method’ means a method of testing the  
9                   water quality of coastal recreation waters for which  
10                  results are available as soon as practicable and not  
11                  more than 4 hours after receipt of the applicable sam-  
12                  ple by the testing facility.”.

13                  (e) *NOTIFICATION OF FEDERAL, STATE, AND LOCAL*  
14 *AGENCIES; CONTENT OF STATE AND LOCAL PROGRAMS.*—  
15 Section 406(c) of the Federal Water Pollution Control Act  
16 (33 U.S.C. 1346(c)) is amended—

17                  (1) in paragraph (5)—

18                   (A) in the matter preceding subparagraph  
19                   (A), by striking “prompt communication” and  
20                   inserting “communication, within 2 hours of the  
21                   receipt of the results of a water quality sample,”;

22                   (B) by striking subparagraph (A) and in-  
23                   serting the following:

24                   “(A)(i) in the case of any State in which  
25                   the Administrator is administering the program

1           *under section 402, the Administrator, in such*  
 2           *form as the Administrator determines to be ap-*  
 3           *propriate; and*

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

9           *(2) by redesignating paragraphs (6) and (7) as*  
 10          *paragraphs (7) and (8), respectively;*

11          *(3) by inserting after paragraph (5) the fol-*  
 12          *lowing:*

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

19           *(4) in paragraph (7) (as redesignated by para-*  
 20           *graph (2))—*

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

23           *(B) by striking “and” at the end;*

1           (5) in paragraph (8) (as redesignated by para-  
 2           graph (2)), by striking the period at the end and in-  
 3           serting a semicolon; and

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

5           “(9) the availability of a geographical informa-  
 6           tion system database that the State or local govern-  
 7           ment program shall use to inform the public about  
 8           coastal recreation waters and that—

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

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

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

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

19          “(10) measures to ensure that closures or  
 20          advisories are made or issued within 2 hours after the  
 21          receipt of the results of a water quality sample exceed-  
 22          ing applicable water quality standards for pathogens  
 23          and pathogen indicators;

24          “(11) measures that inform the public of identi-  
 25          fied sources of pathogenic contamination; and

1           “(12) analyses of monitoring protocols to deter-  
 2           mine which protocols are most likely to detect patho-  
 3           genic contamination.”.

4           (f) *NATIONAL LIST OF BEACHES*.—Section 406(g) of  
 5           the Federal Water Pollution Control Act (33 U.S.C.  
 6           1346(g)) is amended by striking paragraph (3) and insert-  
 7           ing the following:

8           “(3) *UPDATES*.—Not later than 1 year after the  
 9           date of enactment of the Clean Coastal Environment  
 10          and Public Health Act of 2009, and biennially there-  
 11          after, the Administrator shall update the list described  
 12          in paragraph (1).”.

13          (g) *COMPLIANCE REVIEW*.—Section 406(h) of the Fed-  
 14          eral Water Pollution Control Act (33 U.S.C. 1346(h)) is  
 15          amended—

16               (1) by redesignating paragraphs (1) and (2) as  
 17               subparagraphs (A) and (B), respectively, and indent-  
 18               ing the subparagraphs appropriately;

19               (2) by striking “In the” and inserting the fol-  
 20               lowing:

21               “(1) *IN GENERAL*.—In the”; and

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

23               “(2) *COMPLIANCE REVIEW*.—On or before July  
 24               31 of each calendar year beginning 18 months after  
 25               the date of enactment of the Clean Coastal Environ-

1        *ment and Public Health Act of 2009, the Adminis-*  
2        *trator shall—*

3                *“(A) prepare a written assessment of com-*  
4        *pliance with—*

5                *“(i) all statutory and regulatory re-*  
6                *quirements of this section for each State*  
7                *and local government; and*

8                *“(ii) conditions of each grant made*  
9                *under this section to a State or local gov-*  
10                *ernment;*

11                *“(B) notify the State or local government of*  
12                *each such assessment; and*

13                *“(C) make each of the assessments available*  
14                *to the public in a searchable database on the*  
15                *Internet on or before December 31 of the applica-*  
16                *ble calendar year.*

17                *“(3) CORRECTIVE ACTION.—If a State or local*  
18                *government that the Administrator notifies under*  
19                *paragraph (2) is not in compliance with any require-*  
20                *ment or grant condition described in paragraph (2)*  
21                *and fails to take such action as is necessary to com-*  
22                *ply with the requirement or condition by the date*  
23                *that is 1 year after the date of notification, any*  
24                *grants made under subsection (b) to the State or local*  
25                *government, after the last day of that 1-year period*

1       *and while the State or local government is not in*  
 2       *compliance with all requirements and grant condi-*  
 3       *tions described in paragraph (2), shall have a Federal*  
 4       *share of not to exceed 50 percent.*

5               “(4) *GAO REVIEW.—Not later than December 31*  
 6       *of the third calendar year beginning after the date of*  
 7       *enactment of the Clean Coastal Environment and*  
 8       *Public Health Act of 2009, the Comptroller General*  
 9       *shall—*

10               “(A) *conduct a review of the activities of the*  
 11       *Administrator under paragraphs (2) and (3)*  
 12       *during the first and second calendar years begin-*  
 13       *ning after that date of enactment; and*

14               “(B) *submit to Congress a report on the re-*  
 15       *sults of the review.”.*

16       (h) *AUTHORIZATION OF APPROPRIATIONS.—Section*  
 17       *406(i) of the Federal Water Pollution Control Act (33*  
 18       *U.S.C. 1346(i)) is amended by striking “\$30,000,000 for*  
 19       *each of fiscal years 2001 through 2005” and inserting*  
 20       *“\$60,000,000 for each of fiscal years 2009 through 2013”.*

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 (114 Stat. 877) is amended*  
 25       *by striking “2005” and inserting “2013”.*



1 **SEC. 4. STUDY OF GRANT DISTRIBUTION FORMULA.**

2       (a) *STUDY*.—Not later than 30 days after the date of  
3 enactment of this Act, the Administrator shall commence  
4 a study of the formula for the distribution of grants under  
5 section 406 of the Federal Water Pollution Control Act (33  
6 U.S.C. 1346) for the purpose of identifying potential revi-  
7 sions of that formula.

8       (b) *CONTENTS*.—In conducting the study under this  
9 section, the Administrator shall take into consideration—

10           (1) the base cost to States of developing and  
11 maintaining water quality monitoring and notifica-  
12 tion programs;

13           (2) the varied beach monitoring and notification  
14 needs of the States, including beach mileage, beach  
15 usage, and length of beach season; and

16           (3) other factors that the Administrator deter-  
17 mines to be appropriate.

18       (c) *CONSULTATION*.—In conducting the study under  
19 this section, the Administrator shall consult with appro-  
20 priate Federal, State, and local agencies.

21       (d) *REPORT*.—Not later than 1 year after the date of  
22 enactment of this Act, the Administrator shall submit to  
23 the Committee on Transportation and Infrastructure of the  
24 House of Representatives and the Committee on Environ-  
25 ment and Public Works of the Senate a report describing  
26 the results of the study under this section, including any

1 *recommendation for revision of the distribution formula re-*  
 2 *ferred to in subsection (a).*

3 **SEC. 5. IMPACT OF CLIMATE CHANGE ON POLLUTION OF**  
 4 **COASTAL RECREATION WATERS.**

5 (a) *STUDY.*—*The Administrator shall conduct a study*  
 6 *on the long-term impact of climate change on pollution of*  
 7 *coastal recreation waters.*

8 (b) *REPORT.*—

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

13 (2) *INFORMATION ON POTENTIAL CONTAMINANT*  
 14 *IMPACTS.*—*The report shall include information on*  
 15 *potential contaminant impacts on—*

16 (A) *ground and surface water resources;*  
 17 *and*

18 (B) *public and ecosystem health in coastal*  
 19 *communities.*

20 (3) *MONITORING.*—*The report shall—*

21 (A) *address monitoring required to docu-*  
 22 *ment and assess changing conditions of coastal*  
 23 *water resources, recreational waters, and eco-*  
 24 *systems; and*

1                   (B) review the current ability to assess and  
 2                   forecast impacts associated with long-term cli-  
 3                   mate change.

4                   (4) *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 the impacts and effects described in para-  
 8                   graphs (2) and (3) in order to protect public and eco-  
 9                   system health.

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

16 **SEC. 6. IMPACT OF NUTRIENTS ON POLLUTION OF COASTAL**  
 17 **RECREATION WATERS.**

18                  (a) *STUDY.*—The Administrator shall conduct a study  
 19                  of available scientific information relating to the impacts  
 20                  of nutrient excesses and algal blooms on coastal recreation  
 21                  waters.

22                  (b) *REPORT.*—

23                         (1) *IN GENERAL.*—Not later than 1 year after  
 24                  the date of enactment of this Act, the Administrator

1       *shall submit to Congress a report on the results of the*  
2       *study conducted under subsection (a).*

3               (2) *INCLUSIONS.—The report under paragraph*  
4       *(1) shall include—*

5                       (A) *information regarding the impacts of*  
6                       *nutrient excesses and algal blooms on coastal*  
7                       *recreation waters and coastal communities; and*

8                       (B) *recommendations of the Administrator*  
9                       *for actions to be carried out by the Adminis-*  
10                      *trator to address those impacts, including, if ap-*  
11                      *plicable, through the establishment of numeric*  
12                      *water quality criteria.*

13               (3) *CONSULTATION.—In developing the report*  
14       *under paragraph (1), the Administrator shall work in*  
15       *consultation with the heads of other appropriate Fed-*  
16       *eral agencies (including the National Oceanic and At-*  
17       *mospheric Administration), States, and local govern-*  
18       *mental entities.*



Calendar No. 353

11<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 878**

[Report No. 111-170]

**A BILL**

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

APRIL 20, 2010

Reported with an amendment