

Calendar No. 353

111TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 111-170

CLEAN COASTAL ENVIRONMENT AND PUBLIC HEALTH ACT OF 2009

APRIL 20, 2010.—Ordered to be printed

Mrs. BOXER, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 878]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 878) to amend the Federal Water Pollution Control Act to modify provisions relating to beach monitoring, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSES OF THE LEGISLATION

The purposes of the Clean Coastal Environment and Public Health Act of 2009 (the Act) are to prescribe the use of rapid testing methods for the testing of pollutants in coastal recreation waters; mandate public notice requirements; expand the scope of grants to include pollution tracking and remediation activities; require studies on impacts of climate change and nutrients on pollution of coastal recreation waters; require an assessment of the grant distribution formula; and increase the authorization limit from \$30,000,000 to \$60,000,000 for such activities.

GENERAL STATEMENT AND BACKGROUND

The Act amends the Federal Water Pollution Control Act to update the testing methods for water-borne pathogens and other con-

taminants with potential to harm human health in coastal recreation waters. The Act also reauthorizes the Beaches Environmental Assessment and Coastal Health Act of 2000 (BEACH Act), improves source identification and prevention efforts, ensures prompt communication with state environmental agencies, and improves state and local coastal recreation water quality programs.

In 2000, when the BEACH Act became law, the Act's goal was to improve public awareness of water quality at our nation's beaches. According to the U.S. Environmental Protection Agency (EPA), research has found that contact with contaminated water can lead to gastrointestinal disorders, ear or skin infections, and respiratory diseases if contaminated water is inhaled. The pathogens responsible for waterborne diseases can be bacteria, viruses, protozoa, fungi, and other parasites. Public health risks are especially significant for sensitive subpopulations, such as children and the elderly.

The BEACH Act of 2000 was successful at prompting states to adopt water quality criteria and in strengthening public reporting requirements. However, public health risks from swimming in polluted coastal waters continue to be an issue in certain areas of the United States. A 2007 United States Government Accountability Office report found that states' monitoring and notification programs varied considerably in the frequency with which beaches were monitored, the monitoring methods used, and how the public was notified of potential health risks—differences due, in part, to the BEACH Act funding levels. The report also found that while the frequency of water quality monitoring increased nationwide, the underlying causes of contamination continue to remain largely unknown.

The Clean Coastal Environment and Public Health Act of 2009 expands upon existing law by requiring the use of rapid testing methods and additional notification standards. Unlike existing methods, which permit as many as three days to pass before water testing results are communicated and decisions to close down beaches are made, the Act mandates rapid testing methods to quickly test water quality. Rapid testing methods are defined as those that produce results within four hours after receipt of the applicable sample by the testing facility. Additionally, the Act requires that information obtained from these test methods are communicated to the public within two hours of receipt of the results of a water quality sample via a searchable database. This is a clarification of existing law, which does not specify a time or method for the communication to occur. This legislation ensures more rapid decisions will be made about beach closures in order to better protect public health.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the Act may be cited as the “Clean Coastal Environment and Public Health Act of 2009”.

Section 2. Federal Water Pollution Control Act amendments

Section 2 amends sections 303 and 304 of the Federal Water Pollution Control Act (33 U.S.C. 1313, 1314) to ensure adoption of new

and revised water quality criteria, incorporation of rapid testing methods, and publication of pathogen and pathogen indicator lists.

This section amends Section 406 of the Federal Water Pollution Control Act (33 U.S.C. 1346) to require monitoring and notification programs that receive funding under this section to include monitoring, public notification, source tracking and sanitary surveys, and to allow for prevention efforts to address identified sources of contamination in coastal recreation waters.

This section also amends Section 406 to specify that a state or local government program must identify rapid testing methods to test water quality to receive grant money under this Act. Rapid testing is defined as a method of testing for which results are available as soon as practicable and not more than four hours after receipt of the applicable sample by the testing facility. The Administrator would be required to validate rapid testing methods by October 15, 2012.

Section 2 specifies that to receive grant money, a state or local government program must disclose beach water quality violations, within two hours of receipt of the results of a water quality sample, to the public and relevant state agencies that have the authority to prevent or treat beach water pollution. Programs would be required to ensure the availability of a publicly accessible and searchable global information system database that is updated within 24 hours of the availability of revised information, organized by beach, and that identifies applicable water quality standards, monitoring protocols, sampling results, and other pertinent information.

Within one year after enactment of the Act and biennially thereafter, this section requires EPA to update the National List of Beaches. EPA would further be required to complete annual compliance reviews to ensure that programs receiving grant money are in compliance with the requirements of this Act and that any shortcomings are promptly corrected. If a grantee fails to take corrective action for any requirement or grant condition within one year of notification then they would have a federal share of not to exceed 50 percent. Within three years, the Government Accountability Office would be required to conduct a review of activities under this Act and submit a report to Congress.

Section 2 increases the authorization for section 406(i) of the Federal Water Pollution Control Act from \$30 million to \$60 million, for each of the fiscal years 2009 through 2013.

Section 3. Funding for Beaches Environmental Assessment and Coastal Health Act

Section 3 extends the authorization of the BEACH Act to 2013.

Section 4. Impact of climate change on pollution of coastal recreation waters

Section 4 requires a study on the long-term impact of climate change on pollution of coastal recreation waters—the results of which would be published in a report that contains information on potential contaminant impacts to coastal communities, monitoring requirements, and necessary federal actions.

Section 5. Impact of nutrients on pollution of coastal recreation waters

Section 5 requires a study of available scientific information relating to the impacts of nutrient excesses and algal blooms on coastal recreation waters—the results of which would be published in a report that includes recommendations to address such impacts.

LEGISLATIVE HISTORY

On April 23, 2009, Senator Lautenberg introduced S. 878. Senators Voinovich, Menendez, Boxer and Merkley are cosponsors to the bill. On June 18, 2009, the Environment and Public Works Committee held a business meeting to consider the bill. Senator Lautenberg offered a substitute amendment to make certain changes to the bill, and the amendment was agreed to by voice vote. S. 878 was ordered favorably reported as amended by voice vote.

Companion legislation introduced by Rep. Pallone [D-NJ], H.R. 2093, was ordered to be reported favorably by the House Committee on Transportation and Infrastructure on June 4, 2009. In the 110th Congress, similar legislation passed the House of Representatives by voice vote and was reported favorably with amendments by the Committee on July 10, 2008.

HEARINGS

In the 110th Congress, the Subcommittee on Transportation Safety, Infrastructure Security, and Water Quality held a hearing entitled, “Protecting Water Quality at America’s Beaches” on June 27, 2008, at which related legislation was discussed.

ROLLCALL VOTES

The Committee on Environment and Public Works ordered S. 878 favorably reported by voice vote on June 18, 2009. No rollcall votes were taken.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes evaluation of the regulatory impact of the reported bill. The Committee finds that this legislation, which provides grants and financial assistance to state, local and tribal governments for monitoring of coastal recreational waters, does not have substantial regulatory impacts.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Committee finds that this legislation does not impose intergovernmental mandates or private sector mandates as those terms are defined in UMRA. The Congressional Budget Office concurs, finding “S. 878 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.”

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 6, 2009.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 878, 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.

Enclosure.

S. 878—Clean Coastal Environment and Public Health Act of 2009

Summary: S. 878 would authorize the appropriation of \$60 million a year over the 2010–2013 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 necessary for EPA to manage the program through 2013.

Assuming appropriation of the authorized funds (including amounts necessary for administrative costs), CBO estimates that implementing S. 878 would cost \$244 million over the 2010–2014 period. Enacting the bill would not affect direct spending or revenues.

S. 878 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 S. 878 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						
Beach Protection Grants:						
Authorization Level	60	60	60	60	0	240
Estimated Outlays	48	60	60	60	12	240
Administrative Support:						
Estimated Authorization Level	1	1	1	1	0	4
Estimated Outlays	1	1	1	1	0	4
Total Changes:						
Estimated Authorization Level	61	61	61	61	0	244
Estimated Outlays	49	61	61	61	12	244

Basis of estimate: For this estimate, CBO assumes that S. 878 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 existing program. In 2009, about \$10 million was appropriated to EPA for

grants to support efforts to monitor beach water. CBO estimates that implementing this legislation would cost \$244 million over the next five years, including \$4 million to administer the grant program.

Intergovernmental and private-sector impact: S. 878 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On June 10, 2009, CBO transmitted a cost estimate for H.R. 2093, the Clean Coastal Environmental and Public Health Act of 2009, as ordered reported by the House Committee on Transportation and Infrastructure on June 4, 2009. Both H.R. 2093 and S. 878 would reauthorize the Beaches Environmental Assessment and Coastal Health Act, but H.R. 2093 would authorize grants of \$40 million a year through 2014.

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: Peter H. Fontaine, Assistant Director for Budget Analysis.

MINORITY VIEWS OF SENATOR JAMES M. INHOFE

I appreciate the success of states and communities providing appropriate public health information to citizens swimming and recreating at our nation's beaches. The BEACH Act authorization ended in 2005 and I agree that reauthorization is appropriate. However, S. 878, the Clean Coastal Environment and Public Health Act of 2009 (the Act), has significant problems accompanying the reauthorization language.

The Clean Coastal Environment and Public Health Act of 2009 doubles the authorization and greatly expands the original intent of the BEACH Act of 2000 grant program. To cover the cost of this expansion, the bill doubles the authorization from \$30,000,000 to \$60,000,000. However, the current funding levels have been stagnant at an appropriations average of \$10,000,000, which is only 1/3 the current authorization ceiling. The first step to controlling government spending is for the authorizers to set reasonable and achievable authorization levels. Additionally, I believe any grants authorized for pollution remediation should leverage state and local funding sources by requiring a non-federal cost share analogous to current grant programs outlined in the Federal Water Pollution Control Act (i.e., Section 205 Capitalization Grants).

Since 2000, the legislation has provided authority and funding for states and local governments to monitor and issue public health advisories when beach water is deemed unsafe for human contact. This legislation increases the authorized activities under the grants to include the prescribed use of rapid testing methods for pollutants in coastal recreation waters, mandates strict public notice requirements, and expands the scope of grants to include pollution tracking and remediation activities. The increase in scope and specificity of the requirements of the bill will likely present significant challenges to state and local governments that implement the BEACH Act. It seems very likely that states will not be able to meet one or more of the new mandates for grants, and EPA has little flexibility to assist states.

Additionally, Congress provides funding for remediation through a variety of grants, including State Revolving Funds, and for water discharge and pollution tracking through the Environmental Protection Agency's annual enforcement budget. I believe these inclusions to the BEACH Act are duplicative.

The rapid testing requirement limits EPA to tests that have a 4-hour turn around. This could potentially limit other testing methods that may be more accurate or have other positive benefits. EPA, in coordination with stakeholders, has committed to updating its water quality criteria by 2012. This legislation should be flexible enough to work with updates in water quality criteria, technology or science and should not impose potentially substantial testing

costs to state and local governments when testing methods and testing equipment requirements could change.

SENATOR JAMES M. INHOFE.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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

* * * * *

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved—

(1)(A) * * *

* * * * *

SEC. 303. (a)(1) In order to carry out the purpose of this Act, any water quality standard applicable to interstate waters which was adopted by any State and submitted to, and approved by, or is awaiting approval by, the Administrator pursuant to this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, shall remain in effect unless the Administrator determined that such standard is not consistent with the applicable requirements of this Act as in effect immediately prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972. If the Administrator makes such a determination he shall, within three months after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972, notify the State and specify the changes needed to meet such requirements. If such changes are not adopted by the State within ninety days after the date of such notification, the Administrator shall promulgate such changes in accordance with subsection (b) of this section.

(2) * * *

* * * * *

(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

(1) ADOPTION BY STATES.—

(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of the enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal

recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

(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.

* * * * *

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

(2) * * *

* * * * *

(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.

(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.

(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 in-*

dicators studied in developing the new or revised water quality criteria.

* * * * *

SEC. 401. (a)(1)* * *

* * * * *

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]** *methods for monitoring protocols 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) the prompt notification of the public, local governments, and the Administrator of any exceeding of or likelihood of exceeding applicable water quality standards for coastal recreation waters described in subparagraph (A).

(2) LEVEL OF PROTECTION.—The performance criteria referred to in paragraph (1) shall provide that the activities described in subparagraphs (A) and (B) of that paragraph shall be carried out as necessary for the protection of public health and safety.

(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

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

(2) LIMITATIONS.—

(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a monitoring and notification program if—

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

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

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

(iv) the State or local government provides a list of discrete areas of coastal recreation waters that are

subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

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

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

(3) OTHER REQUIREMENTS.—

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

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

(ii) actions taken to notify the [public] *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.

(B) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a monitoring and notification program would be subject to the delegation).

(4) FEDERAL SHARE.—

(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for monitoring and notification under this subsection.

(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a monitoring and notification program may be—

(i) in an amount not to exceed 50 percent, as determined by the Administrator in consultation with State, tribal, and local government representatives; and

(ii) provided in cash or in kind.

(5) CONTENTS OF MONITORING AND NOTIFICATION PROGRAMS.—*For the purposes of this section, a program for moni-*

toring and notification shall include monitoring consistent with the performance criteria published by the Administrator under subsection (a), public notification, source tracking, sanitary surveys, and prevention efforts to address identified sources of contamination by pathogens and pathogen indicators in coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

* * * * *

(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) lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

(2) in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

(3) the frequency and location of monitoring and assessment of coastal recreation waters based on—

(A) the periods of recreational use of the waters;

(B) the nature and extent of use during certain periods;

(C) the proximity of the waters to known point sources and nonpoint sources of pollution; and

(D) any effect of storm events on the waters;

(4)(A) the **methods** *methods, including the use of a rapid testing method after the last day of the 1-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 2 hours of the receipt of the results of a water quality sample, the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—*

[(A) the Administrator, in such form as the Administrator determines to be appropriate; and]

(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

(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

(6) *measures for an annual report to the Administrator, in such form as the Administrator determines to be appropriate, on the occurrence, nature, location, pollutants involved, and extent of any exceedance 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 geographical information system database that the 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;

(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 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.*

* * * * *

(g) LIST OF WATERS.—

(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

(A) specifies any waters described in this paragraph that are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the State or the Administrator from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

(2) AVAILABILITY.—The Administrator shall make the list described in paragraph (1) available to the public through—

- (A) publication in the Federal Register; and
- (B) electronic media.

[(3) UPDATES.—The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.]

(3) UPDATES.—*Not later than 1 year after the date of 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 18 months after the date of enactment of the Clean Coastal Environment and Public Health Act of 2009, the Administrator shall—*

(A) *prepare a written assessment of compliance with—*

(i) *all statutory and regulatory requirements of this section for each State and local government; and*

(ii) *conditions of each grant made under this section to a State or local government;*

(B) *notify the State or local government of each 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 the applicable 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) and fails to take such action as is necessary to comply with the requirement or condition by the date that is 1 year after the date of notification, any grants made under subsection (b) to the State or local government, after the last day of that 1-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 the Clean Coastal Environment and Public Health Act of 2009, the Comptroller General shall—*

(A) conduct a review of the activities of the Administrator under paragraphs (2) and (3) during the first and second calendar years beginning after that date of enactment; and
(B) submit to Congress a report on the results of the 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】~~ \$60,000.000 for each fiscal years 2009 through 2013.

SEC. 501. (a) The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this Act.

(b) * * *

* * * * *

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

(1) The term “State water pollution control agency” means the State agency designated by the Governor having responsibility for enforcing State laws relating to the abatement of pollution.

(2) * * *

* * * * *

(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 4 hours after receipt of the applicable sample by the testing facility.

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】~~ 2013.

* * * * *

