

112TH CONGRESS
1ST SESSION

H. R. 3690

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2011

Mr. PALLONE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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 “Clean Coastal Environ-
5 ment and Public Health Act of 2011”.

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

7 (a) MONITORING PROTOCOLS.—Section 406(a)(1)(A)
8 of the Federal Water Pollution Control Act (33 U.S.C.
9 1346(a)(1)(A)) is amended by striking “methods for mon-

1 itoring” and inserting “protocols for monitoring that are
2 most likely to detect pathogenic contamination”.

3 (b) SOURCE TRACKING.—Section 406(b) of such Act
4 (33 U.S.C. 1346(b)) is amended—

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

7 (2) by inserting after paragraph (2) the fol-
8 lowing:

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

18 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
19 406(i) of such Act (33 U.S.C. 1346(i)) is amended by
20 striking “\$30,000,000 for each of fiscal years 2001
21 through 2005” and inserting “\$40,000,000 for each of fis-
22 cal years 2012 through 2016”.

1 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
2 **MENT AND COASTAL HEALTH ACT.**

3 Section 8 of the Beaches Environmental Assessment
4 and Coastal Health Act of 2000 (Public Law 106–284)
5 is amended by striking “2005” and inserting “2016”.

6 **SEC. 4. STATE REPORTS.**

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

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

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

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

25 (c) VALIDATION AND USE OF RAPID TESTING METH-
26 ODS.—

1 (1) VALIDATION OF RAPID TESTING METH-
2 ODS.—Not later than October 15, 2014, the Admin-
3 istrator of the Environmental Protection Agency (in
4 this Act referred to as the “Administrator”) shall
5 complete an evaluation and validation of a rapid
6 testing method for the water quality criteria and
7 standards for pathogens and pathogen indicators de-
8 scribed in section 304(a)(9)(A) of the Federal Water
9 Pollution Control Act (33 U.S.C. 1314(a)(9)(A)).

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

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

24 (B) PRIORITIZATION.—In developing such
25 guidance, the Administrator shall require the

1 use of the rapid testing method at those beach-
2 es or similar points of access that are the most
3 used by the public.

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

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

13 (e) REVISIONS TO RAPID TESTING METHODS.—

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

20 (2) REVISIONS TO RAPID TESTING METHODS.—

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

1 validation of the rapid testing method as expedi-
2 tiously as practicable.

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

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

16 **SEC. 6. NOTIFICATION OF FEDERAL, STATE, AND LOCAL**
17 **AGENCIES.**

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

20 (1) in paragraph (5) by striking “prompt com-
21 munication” and inserting “communication, within
22 24 hours of the receipt of the results of a water
23 quality sample,”;

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

1 “(A) in the case of—

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

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

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

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

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

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

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

1 (1) in paragraph (7) (as redesignated by section
2 (6)(3) of this Act)—

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

5 (B) by striking “and” at the end;

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) by striking “In the” and inserting the fol-
14 lowing:

15 “(1) IN GENERAL.—In the”; and

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

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

21 “(A) prepare a written assessment of com-
22 pliance with all statutory and regulatory re-
23 quirements of this section for each State and
24 local government and of compliance with condi-

1 tions of each grant made under this section to
2 a State or local government;

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

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

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

22 “(4) GAO REVIEW.—Not later than December
23 31 of the third calendar year beginning after the
24 date of enactment of this paragraph, the Comp-
25 troller General shall conduct a review of the activi-

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

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

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

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

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

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

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

24 Section 406(g)(3) of the Federal Water Pollution
25 Control Act (33 U.S.C. 1346(g)(3)) is amended by strik-

1 ing “The Administrator” and all that follows through the
2 period and inserting “Within 12 months after the date of
3 the enactment of the Clean Coastal Environment and Pub-
4 lic Health Act of 2011, and biennially thereafter, the Ad-
5 ministrator shall update the list described in paragraph
6 (1).”.

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

10 (a) **STUDY.**—The Administrator shall conduct a
11 study on the long-term impact of climate change on path-
12 ogenic contamination of coastal recreation waters.

13 (b) **REPORT.**—

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

18 (2) **INFORMATION ON POTENTIAL CONTAMINA-**
19 **TION IMPACTS.**—The report shall include informa-
20 tion on the potential impacts of pathogenic contami-
21 nation on ground and surface water resources as
22 well as public and ecosystem health in coastal com-
23 munities.

24 (3) **FEDERAL ACTIONS.**—The report shall high-
25 light necessary Federal actions to help advance the

1 availability of information and tools to assess and
2 mitigate these effects in order to protect public and
3 ecosystem health.

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

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

12 (a) STUDY.—The Administrator shall conduct a
13 study to review the available scientific information per-
14 taining to the impacts of excess nutrients on coastal recre-
15 ation 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 transmit to the Committee on Transpor-
20 tation and Infrastructure of the House of Represent-
21 atives and the Committee on Environment and Pub-
22 lic Works of the Senate a report on the results of
23 the study conducted under subsection (a).

24 (2) IMPACTS.—Such report shall include infor-
25 mation on any adverse impacts of excess nutrients

1 on coastal recreation waters, including adverse im-
2 pacts caused by algal blooms resulting from excess
3 nutrients.

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

10 (4) CONSULTATION.—In developing such re-
11 port, the Administrator shall consult with the heads
12 of other appropriate Federal agencies (including the
13 National Oceanic and Atmospheric Administration),
14 States, and local government entities.

○