

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2093
OFFERED BY MR. OBERSTAR OF MINNESOTA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

4 SEC. 2. WATER POLLUTION SOURCE IDENTIFICATION.

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

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

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

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

16 “(3) SOURCE IDENTIFICATION PROGRAMS.—In
17 carrying out a monitoring and notification program,
18 a State or local government may develop and imple-

1 ment a coastal recreation waters pollution source
2 identification and tracking program for coastal
3 recreation waters adjacent to beaches or similar
4 points of access that are used by the public and are
5 not meeting applicable water quality standards for
6 pathogens and pathogen indicators.”.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
8 406(i) of such Act (33 U.S.C. 1346(i)) is amended by
9 striking “\$30,000,000 for each of fiscal years 2001
10 through 2005” and inserting “\$40,000,000 for each of fis-
11 cal years 2010 through 2014”.

12 **SEC. 3. FUNDING FOR BEACHES ENVIRONMENTAL ASSESS-**
13 **MENT AND COASTAL HEALTH ACT.**

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

17 **SEC. 4. STATE REPORTS.**

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

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

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

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

13 (c) VALIDATION AND USE OF RAPID TESTING METH-
14 ODS.—

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

24 (2) GUIDANCE FOR USE OF RAPID TESTING
25 METHODS.—

1 (A) IN GENERAL.—Not later than 180
2 days after completion of the validation under
3 paragraph (1), and after providing notice and
4 an opportunity for public comment, the Admin-
5 istrator shall publish guidance for the use at
6 coastal recreation waters adjacent to beaches or
7 similar points of access that are used by the
8 public of the rapid testing method that will en-
9 hance the protection of public health and safety
10 through rapid public notification of any exceed-
11 ing of applicable water quality standards for
12 pathogens and pathogen indicators.

13 (B) PRIORITIZATION.—In developing such
14 guidance, the Administrator shall require the
15 use of the rapid testing method at those beach-
16 es or similar points of access that are the most
17 used by the public.

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

21 “(26) RAPID TESTING METHOD.—The term
22 ‘rapid testing method’ means a method of testing
23 the water quality of coastal recreation waters for
24 which results are available as soon as practicable

1 and not more than 6 hours after the commencement
2 of the rapid testing method in the laboratory.”.

3 (e) REVISIONS TO RAPID TESTING METHODS.—

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

10 (2) REVISIONS TO RAPID TESTING METHODS.—

11 If a rapid testing method identified under paragraph
12 (1) will make results available in less time and im-
13 prove the accuracy and reproducibility of results
14 when compared to the existing rapid testing method,
15 the Administrator shall complete an evaluation and
16 validation of the rapid testing method as expedi-
17 tiously as practicable.

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

24 (4) DECLARATION OF GOALS FOR RAPID TEST-
25 ING METHODS.—It is a national goal that by 2017,

1 a rapid testing method for testing water quality of
2 coastal recreation waters be developed that can
3 produce accurate and reproducible results in not
4 more than 2 hours after commencement of the rapid
5 testing method.

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

8 Section 406(c)(5) of the Federal Water Pollution
9 Control Act (33 U.S.C. 1346(c)(5)) is amended—

10 (1) by striking “prompt communication” and
11 inserting “communication, within 24 hours of the re-
12 ceipt of the results of a water quality sample,”;

13 (2) in subparagraph (A)—

14 (A) by inserting “(i) in the case of any
15 State in which the Administrator is admin-
16 istering the program under section 402,” before
17 “the Administrator” the first place it appears;
18 and

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

20 “(ii) in the case of any State other than a
21 State to which clause (i) applies, all agencies of
22 the State government with authority to require
23 the prevention or treatment of the sources of
24 coastal recreation water pollution; and”;

1 (3) by redesignating paragraphs (6) and (7) as
2 paragraphs (7) and (8), respectively; and

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

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

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

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

14 (1) in paragraph (7) (as redesignated by section
15 6(3) of this Act)—

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

18 (B) by striking “and” at the end;

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

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

23 “(9) the availability of a geographic information
24 system database that such State or local government

1 program shall use to inform the public about coastal
2 recreation waters and that—

3 “(A) is publicly accessible and searchable
4 on the Internet;

5 “(B) is organized by beach or similar point
6 of access;

7 “(C) identifies applicable water quality
8 standards, monitoring protocols, sampling plans
9 and results, and the number and cause of coast-
10 al recreation water closures and advisory days;
11 and

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

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

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

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

22 (1) by redesignating paragraphs (1) and (2) as
23 subparagraphs (A) and (B), respectively;

24 (2) by moving such subparagraphs 2 ems to the
25 right;

1 (3) by striking “In the” and inserting the fol-
2 lowing:

3 “(1) IN GENERAL.—In the”; and

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

5 “(2) COMPLIANCE REVIEW.—On or before July
6 31 of each calendar year beginning after the date of
7 enactment of this paragraph, the Administrator
8 shall—

9 “(A) prepare a written assessment of com-
10 pliance with all statutory and regulatory re-
11 quirements of this section for each State and
12 local government and of compliance with condi-
13 tions of each grant made under this section to
14 a State or local government;

15 “(B) notify the State or local government
16 of such assessment; and

17 “(C) make each of the assessments avail-
18 able to the public in a searchable database on
19 the Internet on or before December 31 of such
20 calendar year.

21 “(3) CORRECTIVE ACTION.—If a State or local
22 government that the Administrator notifies under
23 paragraph (2) is not in compliance with any require-
24 ment or grant condition described in paragraph (2)
25 fails to take such action as may be necessary to

1 comply with such requirement or condition within
2 one year after the date of notification, any grants
3 made under subsection (b) to the State or local gov-
4 ernment, after the last day of such one-year period
5 and while the State or local government is not in
6 compliance with all requirements and grant condi-
7 tions described in paragraph (2), shall have a Fed-
8 eral share of not to exceed 50 percent.

9 “(4) GAO REVIEW.—Not later than December
10 31 of the third calendar year beginning after the
11 date of enactment of this paragraph, the Comp-
12 troller General shall conduct a review of the activi-
13 ties of the Administrator under paragraphs (2) and
14 (3) during the first and second calendar years begin-
15 ning after such date of enactment and submit to
16 Congress a report on the results of such review.”.

17 **SEC. 9. PUBLICATION OF COASTAL RECREATION WATERS**
18 **PATHOGEN LIST.**

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

22 “(C) PUBLICATION OF PATHOGEN AND
23 PATHOGEN INDICATOR LIST.—Upon publication
24 of the new or revised water quality criteria
25 under subparagraph (A), the Administrator

1 shall publish in the Federal Register a list of all
2 pathogens and pathogen indicators studied
3 under section 104(v).”.

4 **SEC. 10. ADOPTION OF NEW OR REVISED CRITERIA AND**
5 **STANDARDS.**

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

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

11 Section 406(g)(3) of the Federal Water Pollution
12 Control Act (33 U.S.C. 1346(g)(3)) is amended by strik-
13 ing “The Administrator” and all that follows through the
14 period and inserting “Within 12 months after the date of
15 the enactment of the Clean Coastal Environment and Pub-
16 lic Health Act of 2009, and biennially thereafter, the Ad-
17 ministrator shall update the list described in paragraph
18 (1).”.

19 **SEC. 12. IMPACT OF CLIMATE CHANGE ON PATHOGENIC**
20 **CONTAMINATION OF COASTAL RECREATION**
21 **WATERS.**

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

25 (b) **REPORT.**—

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

5 (2) INFORMATION ON POTENTIAL CONTAMI-
6 NANT IMPACTS.—The report shall include informa-
7 tion on the potential impacts of pathogenic contami-
8 nation on ground and surface water resources as
9 well as public and ecosystem health in coastal com-
10 munities.

11 (3) MONITORING.—The report shall address
12 monitoring required to document and assess chang-
13 ing conditions of coastal water resources, rec-
14 reational waters, and ecosystems and review the cur-
15 rent ability to assess and forecast impacts associated
16 with long-term change.

17 (4) FEDERAL ACTIONS.—The report shall high-
18 light necessary Federal actions to help advance the
19 availability of information and tools to assess and
20 mitigate these effects in order to protect public and
21 ecosystem health.

22 (5) CONSULTATION.—In developing the report,
23 the Administrator shall work in consultation with
24 agencies active in the development of the National
25 Water Quality Monitoring Network and the imple-

- 1 mentation of the Ocean Research Priorities Plan and
- 2 Implementation Strategy.

