

Congress of the United States
Washington, DC 20510

February 29, 2012

Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

The Environmental Protection Agency (EPA) recently proposed new Recreational Water Quality Criteria establishing health-based thresholds to protect swimmers and other recreational water users. Under current law, if fecal indicator bacteria levels exceed these criteria levels, states are required to post warnings or close beaches to notify the public of the health risks. While we applaud EPA for moving forward with this long-delayed action, we are concerned that the proposed criteria may not adequately protect public health. Before finalizing the criteria, we urge EPA to reevaluate the proposal using the best available science to adequately protect Americans from the full range of illnesses that can be caused by water-borne pathogens.

America's beaches and lakeshores are some of our country's greatest natural resources. Families across the country look forward to beach vacations and expect that it is safe to go in the water. None of us want a day at the beach to lead to a visit to the doctor's office. That is why we led the effort in Congress to enact the BEACH Act of 2000, which required EPA to take steps to protect public health—including updating the Recreational Water Quality Criteria. We are pleased that the agency is moving forward on these new criteria, following a 2008 court settlement that ended years of delay under the Bush Administration.

Over the past 25 years, the scientific understanding of the relationship of water-borne pathogens and fecal indicator bacteria to illness has vastly improved. EPA's proposal acknowledges this progress and expands the consideration of different types of illnesses that can be contracted from contaminated waters. For instance, the current Recreational Water Quality Criteria, which were first adopted in 1986, were set based only on the incidence of gastrointestinal illness accompanied by a fever. EPA's current proposal acknowledges a wider range of illnesses including gastrointestinal disease without a fever, as well as exposures to pathogens through the skin, eyes, ears, and other pathways.

Unfortunately, even though the proposed criteria address the broader range of illnesses, they do not achieve greater public health protections than those originally adopted in 1986, prior to the enactment of the BEACH Act. EPA's proposed criteria would allow 1 in 28 recreational water users to suffer some type of gastrointestinal illness. While the proposal does project a

decline in gastrointestinal illnesses that include a fever, all illnesses should matter when it comes to protecting Americans at the beach—even if they are not accompanied by a fever. We are concerned that an illness rate of 1 in 28 is simply unacceptably high.

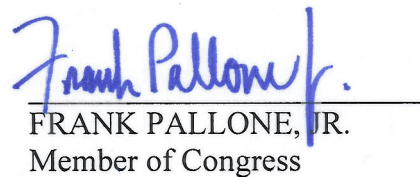
In addition, EPA is proposing significant changes that would allow testing results to be averaged over a 90-day period. We are concerned that given this flexibility, many states may choose to calculate the geometric mean and statistical threshold value over the longer 90 day period, as opposed to the current 30-day period. In addition, the proposal allows one in four samples to exceed the single sample maximum before action must be taken to reduce source pollution entering the water. While long-term trends matter, recreational water users do not experience these waters on an average basis. Instead, they can either get sick from a single day's exposure or miss a day of recreation due to a beach closure.

We all share the goal of protecting the health of swimmers and other recreational water users. Updating the Recreational Water Quality Criteria based on the best available science presents a unique opportunity to achieve that goal. Before finalizing the proposed criteria, we urge you to address the issues raised in this letter and the concerns identified by stakeholders during the public comment period. We appreciate the hard work and dedication of your staff and look forward to working with you to ensure that the final criteria are based on sound science and fully protect public health.

Sincerely,



FRANK R. LAUTENBERG
United States Senator



FRANK PALLONE, JR.
Member of Congress