



**National Sea Grant Law Center**  
**Regulatory Development Announcement**

**November 2004**



**EPA Promulgates Final Water Quality Criteria for Bacteria in Coastal Recreation Waters**

**Background**

The Beaches Environmental Assessment and Coastal Health (BEACH) Act of 2000 amended the Clean Water Act (CWA) to require states with coastal recreation waters to adopt water quality criteria and standards for pathogens and pathogen indicators for which the Administrator of the Environmental Protection Agency (EPA) has published criteria under § 1314 of the CWA. In 1986, the EPA published Ambient Water Quality Criteria (WQC) for bacteria (primarily E. coli) to protect people from gastrointestinal illness in recreational waters, which are waters designated for primary contact uses. If a state fails to adopted criteria and standards, the Administrator is authorized to issue regulations establishing standards for the state. (33 U.S.C. § 1313(i)(2)).

**What This Rule Does**

EPA is promulgating water quality standards for those states and territories with coastal recreational waters which have not adopted bacteria criteria that are as protective of human health as the EPA's 1986 criteria. Thirty-five states have coastal or Great Lakes recreation waters. Fourteen states have adopted satisfactory criteria for all their coastal recreation waters. The federal standards, located at 33 C.F.R. § 131.41, will remain in place until a state adopts appropriate water quality standards.

**Today's Rule Applies to the Following States:**

- |            |               |                |                |
|------------|---------------|----------------|----------------|
| Alaska     | Louisiana     | Mississippi    | Pennsylvania   |
| California | Maine         | New York       | Puerto Rico    |
| Florida    | Maryland      | North Carolina | Rhode Island   |
| Georgia    | Massachusetts | Ohio           | Virgin Islands |
| Hawaii     | Minnesota     | Oregon         | Wisconsin      |
| Illinois   |               |                |                |

**Bacteriological Criteria for Fresh Waters** (Reproduced from EPA's Final Rule)

Indicator	Geometric Mean	Single Sample Maximum (per 100 ml)			
		Designated Bathing Beach (75% confidence level)	Moderate use coastal recreation waters (82% confidence level)	Light use coastal recreation waters (90% confidence level)	Infrequent use coastal recreation waters (95% confidence level)
<u>E. Coli</u>	126/100 mL	235	298	409	575
Enterococci	33/100 mL	61	78	107	151

**Bacteriological Criteria for Marine Waters** (Reproduced from EPA's Final Rule)

Indicator	Geometric Mean	Single Sample Maximum (per 100 ml)			
		Designated Bathing Beach (75% confidence level)	Moderate use coastal recreation waters (82% confidence level)	Light use coastal recreation waters (90% confidence level)	Infrequent use coastal recreation waters (95% confidence level)
Enterococci	35/100 mL	104	158	276	501

### Intensity of Use Designations

- ☞ *Designated Bathing Beach Waters* are “coastal recreation waters that, during the recreation season, are heavily-used (based upon an evaluation of use within the State) and may have: a lifeguard, bathhouse facilities, or public parking for beach access.”
- ☞ *Moderate Use Coastal Recreation Waters* are “coastal recreation waters that are not designated bathing beach waters but typically, during the recreation season, are used by at least half of the number of people as at typical designated bathing beach waters within the State.”
- ☞ *Light Use Coastal Recreation Waters* are “coastal recreation waters that are not designated bathing beach waters but typically, during the recreation season, are used by less than half of the number of people as at typical designated bathing beach waters within the State, but are more than infrequently used.”
- ☞ *Infrequent Use Coastal Recreation Waters* are “those coastal recreation waters that are rarely or occasionally used.”

### How can I find the rule or contact the EPA?

The final rule and major documents supporting it can be found online at <http://www.epa.gov/waterscience/beaches/bacteria-rule.htm>.

For additional information, contact

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