

Calendar No. 205

115TH CONGRESS
1ST SESSION

S. 1057

[Report No. 115–145]

To amend the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 to address harmful algal blooms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2017

Mr. NELSON (for himself, Mr. PORTMAN, Mr. PETERS, Mr. SULLIVAN, Ms. BALDWIN, Mr. BROWN, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 3, 2017

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 to address harmful algal blooms, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Harmful Algal Bloom
3 and Hypoxia Research and Control Amendments Act of
4 2017”.

5 **SEC. 2. REFERENCES TO THE HARMFUL ALGAL BLOOM
6 AND HYPOXIA RESEARCH AND CONTROL ACT
7 OF 1998.**

8 Except as otherwise expressly provided, wherever in
9 this Act an amendment or repeal is expressed in terms
10 of an amendment to, or repeal of, a section or other provi-
11 sion, the reference shall be considered to be made to a
12 section or other provision of the Harmful Algal Bloom and
13 Hypoxia Research and Control Act of 1998 (33 U.S.C.
14 4001 et seq.).

15 **SEC. 3. INTER-AGENCY TASK FORCE.**

16 Section 603(a) (33 U.S.C. 4001(a)) is amended—

17 (1) in paragraph (12), by striking “and” at the
18 end;

19 (2) by redesignating paragraph (13) as para-
20 graph (14); and

21 (3) by inserting after paragraph (12) the fol-
22 lowing:

23 “(13) the Army Corps of Engineers; and”.

24 **SEC. 4. SCIENTIFIC ASSESSMENTS OF FRESHWATER HARM-
25 FUL ALGAL BLOOMS.**

26 Section 603 (33 U.S.C. 4001) is amended—

1 (1) by striking subsection (f);

2 (2) by redesignating subsections (g), (h), (i),
3 and (j) as subsections (f), (g), (h), and (i), respec-
4 tively; and

5 (3) in subsection (g), as redesignated—

6 (A) in the heading, by inserting “MARINE
7 AND FRESHWATER” after “ASSESSMENTS OF”;
8 and

9 (B) in paragraph (1)—

10 (i) by striking the second sentence;
11 and

12 (ii) by amending the third sentence to
13 read as follows: “Each assessment shall ex-
14 amine both marine and freshwater harmful
15 algal blooms, including those in the Great
16 Lakes and upper reaches of estuaries and
17 those that originate in freshwater lakes or
18 rivers and migrate to coastal waters.”.

19 **SEC. 5. CONSULTATION REQUIRED.**

20 Section 102 of the Harmful Algal Bloom and Hy-
21 poxia Amendments Act of 2004 (33 U.S.C. 4001a) is
22 amended by striking “the amendments made by this title”
23 and inserting “the Harmful Algal Bloom and Hypoxia Re-
24 search and Control Act of 1998”.

1 **SEC. 6. HYPOXIA OR HARMFUL ALGAL BLOOM OF NA-**
 2 **TIONAL SIGNIFICANCE.**

3 (a) **RELIEF.**—

4 (1) **IN GENERAL.**—Upon a determination under
 5 subsection (b) that there is an event of national sig-
 6 nificance, the appropriate Federal official is author-
 7 ized to make sums available to the affected State or
 8 local government for the purposes of assessing and
 9 mitigating the environmental, economic, social, and
 10 public health effects of the event of national signifi-
 11 cance.

12 (2) **FEDERAL SHARE.**—The Federal share of
 13 the cost of any activity carried out under this sub-
 14 section for the purposes described in paragraph (1)
 15 may not exceed 75 percent of the cost of that activ-
 16 ity.

17 (3) **DONATIONS.**—Notwithstanding any other
 18 provision of law, an appropriate Federal official may
 19 accept donations of funds, services, facilities, mate-
 20 rials, or equipment that the appropriate Federal offi-
 21 cial considers necessary for the purposes described
 22 in paragraph (1). Any funds donated to an appro-
 23 priate Federal official under this paragraph may be
 24 expended without further appropriation and without
 25 fiscal year limitation.

26 (b) **DETERMINATIONS.**—

1 (1) IN GENERAL.—At the discretion of an ap-
 2 propriate Federal official, or at the request of the
 3 Governor of an affected State, an appropriate Fed-
 4 eral official shall determine whether a hypoxia or
 5 harmful algal bloom event is an event of national
 6 significance.

7 (2) CONSIDERATIONS.—In making a determina-
 8 tion under paragraph (1), the appropriate Federal
 9 official shall consider such factors as the toxicity of
 10 the hypoxia or harmful algal bloom, its potential to
 11 spread, the economic impact, and the geographic
 12 scope, including the potential to affect several mu-
 13 nicipalities, to affect more than 1 State, or to cross
 14 an international boundary.

15 (c) DEFINITIONS.—In this section:

16 (1) APPROPRIATE FEDERAL OFFICIAL.—The
 17 term “appropriate Federal official” means—

18 (A) in the case of a marine or coastal hy-
 19 poxia or harmful algal bloom event, the Under
 20 Secretary of Commerce for Oceans and Atmos-
 21 phere; and

22 (B) in the case of a freshwater hypoxia or
 23 harmful algal bloom event, the Administrator of
 24 the Environmental Protection Agency.

1 ~~(2) EVENT OF NATIONAL SIGNIFICANCE.—The~~
 2 term “event of national significance” means a hy-
 3 poxia or harmful algal bloom event that has had or
 4 will likely have a significant environmental, eco-
 5 nomic, or public health impact on an affected State.

6 ~~(3) HYPOXIA OR HARMFUL ALGAL BLOOM~~
 7 ~~EVENT.—The term “hypoxia or harmful algal bloom~~
 8 ~~event” means the occurrence of hypoxia or a harm-~~
 9 ~~ful algal bloom as a result of a natural, anthropo-~~
 10 ~~genic, or undetermined cause.~~

11 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 609(a) ~~(33 U.S.C. 4009(a))~~ is amended by
 13 inserting “, and \$22,000,000 for each of fiscal years 2019
 14 through 2023” before the period at the end.

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Harmful Algal Bloom*
 17 *and Hypoxia Research and Control Amendments Act of*
 18 *2017”.*

19 **SEC. 2. REFERENCES TO THE HARMFUL ALGAL BLOOM AND**
 20 **HYPOXIA RESEARCH AND CONTROL ACT OF**
 21 **1998.**

22 *Except as otherwise expressly provided, wherever in*
 23 *this Act an amendment or repeal is expressed in terms of*
 24 *an amendment to, or repeal of, a section or other provision,*
 25 *the reference shall be considered to be made to a section or*

1 *other provision of the Harmful Algal Bloom and Hypoxia*
 2 *Research and Control Act of 1998 (33 U.S.C. 4001 et seq.).*

3 **SEC. 3. INTER-AGENCY TASK FORCE.**

4 *Section 603(a) (33 U.S.C. 4001(a)) is amended—*

5 *(1) in paragraph (12), by striking “and” at the*
 6 *end;*

7 *(2) by redesignating paragraph (13) as para-*
 8 *graph (14); and*

9 *(3) by inserting after paragraph (12) the fol-*
 10 *lowing:*

11 *“(13) the Army Corps of Engineers; and”.*

12 **SEC. 4. SCIENTIFIC ASSESSMENTS OF FRESHWATER HARM-**
 13 **FUL ALGAL BLOOMS.**

14 *Section 603 (33 U.S.C. 4001) is amended—*

15 *(1) by striking subsection (f);*

16 *(2) by redesignating subsections (g), (h), (i), and*
 17 *(j) as subsections (f), (g), (h), and (i), respectively;*
 18 *and*

19 *(3) by amending subsection (g) to read as fol-*
 20 *lows:*

21 *“(g) SCIENTIFIC ASSESSMENTS OF MARINE AND*
 22 *FRESHWATER HARMFUL ALGAL BLOOMS.—Not less than*
 23 *once every 5 years the Task Force shall complete and submit*
 24 *to Congress a scientific assessment of harmful algal blooms*
 25 *in United States coastal waters and freshwater systems.*

1 *Each assessment shall examine both marine and freshwater*
 2 *harmful algal blooms, including those in the Great Lakes*
 3 *and upper reaches of estuaries, those in freshwater lakes and*
 4 *rivers, and those that originate in freshwater lakes or rivers*
 5 *and migrate to coastal waters.”.*

6 **SEC. 5. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA**
 7 **PROGRAM.**

8 (a) *PROGRAM DUTIES.*—Section 603A(e) (33 U.S.C.
 9 4002(e)) is amended—

10 (1) in paragraph (1), by inserting “, including
 11 to local and regional stakeholders through the estab-
 12 lishment and maintenance of a publicly accessible
 13 Internet website that provides information as to Pro-
 14 gram activities completed under this section” after
 15 “Program”;

16 (2) in paragraph (3)—

17 (A) in subparagraph (B), by striking “;
 18 and” and inserting a semicolon;

19 (B) in subparagraph (C), by inserting
 20 “and” after the semicolon at the end; and

21 (C) by adding at the end the following:

22 “(D) to accelerate the utilization of effective
 23 methods of intervention and mitigation to reduce
 24 the frequency, severity, and impacts of harmful
 25 algal bloom and hypoxia events;”;

1 (3) in paragraph (4), by striking “and work co-
 2 operatively with” and inserting “, and work coopera-
 3 tively to provide technical assistance to,”; and

4 (4) in paragraph (7)—

5 (A) by inserting “and extension” after “ex-
 6 isting education”; and

7 (B) by inserting “intervention,” after
 8 “awareness of the causes, impacts,”.

9 (b) NATIONAL OCEANIC AND ATMOSPHERIC ADMINIS-
 10 TRATION ACTIVITIES.—Section 603A(f) (33 U.S.C. 4002(f))
 11 is amended—

12 (1) in paragraph (3), by inserting “, which shall
 13 include unmanned systems,” after “infrastructure”;

14 (2) in paragraph (5), by striking “and” at the
 15 end;

16 (3) in paragraph (6)(C), by striking the period
 17 at the end and inserting a semicolon; and

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

19 “(7) use cost effective methods in carrying out
 20 this Act; and

21 “(8) develop contingency plans for the long-term
 22 monitoring of hypoxia.”.

23 **SEC. 6. CONSULTATION REQUIRED.**

24 Section 102 of the Harmful Algal Bloom and Hypoxia
 25 Amendments Act of 2004 (33 U.S.C. 4001a) is amended by

1 *striking “the amendments made by this title” and inserting*
 2 *“the Harmful Algal Bloom and Hypoxia Research and*
 3 *Control Act of 1998”.*

4 **SEC. 7. HYPOXIA OR HARMFUL ALGAL BLOOM OF NATIONAL**
 5 **SIGNIFICANCE.**

6 (a) *RELIEF.*—

7 (1) *IN GENERAL.*—*Upon a determination under*
 8 *subsection (b) that there is an event of national sig-*
 9 *nificance, the appropriate Federal official is author-*
 10 *ized to make sums available to the affected State or*
 11 *local government for the purposes of assessing and*
 12 *mitigating the environmental, economic, social, and*
 13 *public health effects of the event of national signifi-*
 14 *cance.*

15 (2) *FEDERAL SHARE.*—*The Federal share of the*
 16 *cost of any activity carried out under this subsection*
 17 *for the purposes described in paragraph (1) may not*
 18 *exceed 75 percent of the cost of that activity.*

19 (3) *DONATIONS.*—*Notwithstanding any other*
 20 *provision of law, an appropriate Federal official may*
 21 *accept donations of funds, services, facilities, mate-*
 22 *rials, or equipment that the appropriate Federal offi-*
 23 *cial considers necessary for the purposes described in*
 24 *paragraph (1). Any funds donated to an appropriate*
 25 *Federal official under this paragraph may be ex-*

1 *pended without further appropriation and without*
 2 *fiscal year limitation.*

3 *(b) DETERMINATIONS.—*

4 *(1) IN GENERAL.—At the discretion of an appro-*
 5 *priate Federal official, or at the request of the Gov-*
 6 *ernor of an affected State, an appropriate Federal of-*
 7 *ficial shall determine whether a hypoxia or harmful*
 8 *algal bloom event is an event of national significance.*

9 *(2) CONSIDERATIONS.—In making a determina-*
 10 *tion under paragraph (1), the appropriate Federal of-*
 11 *ficial shall consider such factors as the toxicity of the*
 12 *harmful algal bloom, the severity of the hypoxia, its*
 13 *potential to spread, the economic impact, the relative*
 14 *size in relation to the past 5 occurrences of harmful*
 15 *algal blooms or hypoxia events that occur on a recur-*
 16 *rent or annual basis, and the geographic scope, in-*
 17 *cluding the potential to affect several municipalities,*
 18 *to affect more than 1 State, or to cross an inter-*
 19 *national boundary.*

20 *(c) DEFINITIONS.—In this section:*

21 *(1) APPROPRIATE FEDERAL OFFICIAL.—The*
 22 *term “appropriate Federal official” means—*

23 *(A) in the case of a marine or coastal hy-*
 24 *poxia or harmful algal bloom event, the Under*

1 *Secretary of Commerce for Oceans and Atmos-*
 2 *sphere; and*

3 *(B) in the case of a freshwater hypoxia or*
 4 *harmful algal bloom event, the Administrator of*
 5 *the Environmental Protection Agency.*

6 (2) *EVENT OF NATIONAL SIGNIFICANCE.—The*
 7 *term “event of national significance” means a hy-*
 8 *poxia or harmful algal bloom event that has had or*
 9 *will likely have a significant environmental, eco-*
 10 *nomic, or public health impact on an affected State.*

11 (3) *HYPOXIA OR HARMFUL ALGAL BLOOM*
 12 *EVENT.—The term “hypoxia or harmful algal bloom*
 13 *event” means the occurrence of hypoxia or a harmful*
 14 *algal bloom as a result of a natural, anthropogenic,*
 15 *or undetermined cause.*

16 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

17 *Section 609(a) (33 U.S.C. 4009(a)) is amended by in-*
 18 *serting “, and \$22,000,000 for each of fiscal years 2019*
 19 *through 2023” before the period at the end.*

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