

113TH CONGRESS
1ST SESSION

S. 1254

To amend the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2013

Mr. NELSON (for himself, Mr. PORTMAN, Mr. BEGICH, Mr. ROCKEFELLER, Mr. BLUMENTHAL, Mr. KING, Mr. CARDIN, Ms. CANTWELL, Ms. LANDRIEU, Mr. WICKER, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998, 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 “Harmful Algal Bloom
5 and Hypoxia Research and Control Amendments Act of
6 2013”.

1 **SEC. 2. REFERENCES TO THE HARMFUL ALGAL BLOOM**
2 **AND HYPOXIA RESEARCH AND CONTROL ACT**
3 **OF 1998.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Harmful Algal Bloom and
9 Hypoxia Research and Control Act of 1998 (16 U.S.C.
10 1451 note).

11 **SEC. 3. INTER-AGENCY TASK FORCE ON HARMFUL ALGAL**
12 **BLOOMS AND HYPOXIA.**

13 Section 603(a) is amended—

14 (1) by striking “the following representatives
15 from” and inserting “a representative from”;

16 (2) in paragraph (11), by striking “and”;

17 (3) by redesignating paragraph (12) as para-
18 graph (13);

19 (4) by inserting after paragraph (11) the fol-
20 lowing:

21 “(12) the Centers for Disease Control; and”;

22 and

23 (5) in paragraph (13), as redesignated, by
24 striking “such”.

1 **SEC. 4. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA**
2 **PROGRAM.**

3 The Act is amended by inserting after section 603
4 the following:

5 **“SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HY-**
6 **POXIA PROGRAM.**

7 “(a) **ESTABLISHMENT.**—Not later than 1 year after
8 the date of enactment of the Harmful Algal Bloom and
9 Hypoxia Research and Control Amendments Act of 2013,
10 the Under Secretary, acting through the Task Force, shall
11 establish and maintain a national harmful algal bloom and
12 hypoxia program, including—

13 “(1) a statement of objectives, including under-
14 standing, detecting, predicting, controlling, miti-
15 gating, and responding to marine and freshwater
16 harmful algal bloom and hypoxia events; and

17 “(2) the comprehensive research plan and ac-
18 tion strategy under section 603B.

19 “(b) **PERIODIC REVISION.**—The Task Force shall pe-
20 riodically review and revise the Program, as necessary.

21 “(c) **TASK FORCE FUNCTIONS.**—The Task Force
22 shall—

23 “(1) coordinate interagency review of the objec-
24 tives and activities of the Program;

1 “(2) expedite the interagency review process by
2 ensuring timely review and dispersal of required re-
3 ports and assessments under this title;

4 “(3) support the implementation of the Action
5 Strategy, including the coordination and integration
6 of the research of all Federal programs, including
7 ocean and Great Lakes science and management
8 programs and centers, that address the chemical, bi-
9 ological, and physical components of marine and
10 freshwater harmful algal blooms and hypoxia;

11 “(4) support the development of institutional
12 mechanisms and financial instruments to further the
13 objectives and activities of the Program;

14 “(5) review the Program’s distribution of Fed-
15 eral funding to address the objectives and activities
16 of the Program;

17 “(6) promote the development of new tech-
18 nologies for predicting, monitoring, and mitigating
19 harmful algal bloom and hypoxia conditions; and

20 “(7) establish such interagency working groups
21 as it considers necessary.

22 “(d) LEAD FEDERAL AGENCY.—Except as provided
23 in subsection (h), the National Oceanic and Atmospheric
24 Administration shall have primary responsibility for ad-
25 ministering the Program.

1 “(e) PROGRAM DUTIES.—In administering the Pro-
2 gram, the Under Secretary shall—

3 “(1) promote the Program;

4 “(2) prepare work and spending plans for im-
5 plementing the research and activities identified
6 under the Action Strategy;

7 “(3) administer merit-based, competitive grant
8 funding—

9 “(A) to maintain and enhance baseline
10 monitoring programs established by the Pro-
11 gram;

12 “(B) to support the projects maintained
13 and established by the Program; and

14 “(C) to address the research and manage-
15 ment needs and priorities identified in the Ac-
16 tion Strategy;

17 “(4) coordinate and work cooperatively with re-
18 gional, State, tribal, and local government agencies
19 and programs that address marine and freshwater
20 harmful algal blooms and hypoxia;

21 “(5) coordinate with the Secretary of State to
22 support international efforts on marine and fresh-
23 water harmful algal bloom and hypoxia information
24 sharing, research, prediction, mitigation, control,
25 and response activities;

1 “(6) identify additional research, development,
2 and demonstration needs and priorities relating to
3 monitoring, prevention, control, mitigation, and re-
4 sponse to marine and freshwater harmful algal
5 blooms and hypoxia, including methods and tech-
6 nologies to protect the ecosystems affected by ma-
7 rine and freshwater harmful algal blooms and hy-
8 poxia;

9 “(7) integrate, coordinate, and augment exist-
10 ing education programs to improve public under-
11 standing and awareness of the causes, impacts, and
12 mitigation efforts for marine and freshwater harmful
13 algal blooms and hypoxia;

14 “(8) facilitate and provide resources to train
15 State and local coastal and water resource managers
16 in the methods and technologies for monitoring, pre-
17 venting, controlling, and mitigating marine and
18 freshwater harmful algal blooms and hypoxia;

19 “(9) support regional efforts to control and
20 mitigate outbreaks through—

21 “(A) communication of the contents of the
22 Action Strategy and maintenance of online data
23 portals for other information about harmful
24 algal blooms and hypoxia to State, tribal, and
25 local stakeholders; and

1 “(B) overseeing the development, review,
2 and periodic updating of the Action Strategy;

3 “(10) convene at least 1 meeting of the Task
4 Force each year; and

5 “(11) perform such other tasks as may be dele-
6 gated by the Task Force.

7 “(f) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-
8 ISTRATION ACTIVITIES.—The Under Secretary shall—

9 “(1) maintain and enhance the existing com-
10 petitive programs at the National Oceanic and At-
11 mospheric Administration relating to harmful algal
12 blooms and hypoxia;

13 “(2) carry out marine and Great Lakes harmful
14 algal bloom and hypoxia events response activities;

15 “(3) establish new programs and infrastructure,
16 as necessary, to develop and enhance critical obser-
17 vations, monitoring, modeling, data management, in-
18 formation dissemination, and operational forecasts
19 relevant to harmful algal blooms and hypoxia events;

20 “(4) enhance communication and coordination
21 among Federal agencies carrying out marine and
22 freshwater harmful algal bloom and hypoxia activi-
23 ties and research;

1 “(5) to the greatest extent practicable, leverage
2 existing resources and expertise available from local
3 research universities and institutions; and

4 “(6) increase the availability to appropriate
5 public and private entities of—

6 “(A) analytical facilities and technologies;

7 “(B) operational forecasts; and

8 “(C) reference and research materials.

9 “(g) COOPERATIVE EFFORTS.—The Under Secretary
10 shall work cooperatively and avoid duplication of effort
11 with other offices, centers, and programs within the Na-
12 tional Oceanic and Atmospheric Administration, other
13 agencies on the Task Force, and States, tribes, and non-
14 governmental organizations concerned with marine and
15 freshwater issues to coordinate harmful algal bloom and
16 hypoxia (and related) activities and research.

17 “(h) FRESHWATER.—With respect to the freshwater
18 aspects of the Program, the Administrator, through the
19 Task Force, shall carry out the duties otherwise assigned
20 to the Under Secretary under this section, except the ac-
21 tivities described in subsection (f).

22 “(1) PARTICIPATION.—The Administrator’s
23 participation under this section shall include—

24 “(A) research on the ecology and impacts
25 of freshwater harmful algal blooms; and

1 “(B) forecasting and monitoring of and
 2 event response to freshwater harmful algal
 3 blooms in lakes, rivers, estuaries (including
 4 their tributaries), and reservoirs.

5 “(2) NONDUPLICATION.—The Administrator
 6 shall ensure that activities carried out under this
 7 title focus on new approaches to addressing fresh-
 8 water harmful algal blooms and are not duplicative
 9 of existing research and development programs au-
 10 thorized by this title or any other law.

11 “(i) INTEGRATED COASTAL AND OCEAN OBSERVA-
 12 TION SYSTEM.—The collection of monitoring and observa-
 13 tion data under this title shall comply with all data stand-
 14 ards and protocols developed pursuant to the Integrated
 15 Coastal and Ocean Observation System Act of 2009 (33
 16 U.S.C. 3601 et seq.). Such data shall be made available
 17 through the system established under that Act.”.

18 **SEC. 5. COMPREHENSIVE RESEARCH PLAN AND ACTION**
 19 **STRATEGY.**

20 The Act, as amended by section 4 of this Act, is fur-
 21 ther amended by inserting after section 603A the fol-
 22 lowing:

1 **“SEC. 603B. COMPREHENSIVE RESEARCH PLAN AND AC-**
2 **TION STRATEGY.**

3 “(a) IN GENERAL.—Not later than 1 year after the
4 date of enactment of the Harmful Algal Bloom and Hy-
5 poxia Research and Control Amendments Act of 2013, the
6 Under Secretary, through the Task Force, shall develop
7 and submit to Congress a comprehensive research plan
8 and action strategy to address marine and freshwater
9 harmful algal blooms and hypoxia. The Action Strategy
10 shall identify—

11 “(1) the specific activities to be carried out by
12 the Program and the timeline for carrying out those
13 activities;

14 “(2) the roles and responsibilities of each Fed-
15 eral agency in the Task Force in carrying out the
16 activities under paragraph (1); and

17 “(3) the appropriate regions and subregions re-
18 quiring specific research and activities to address
19 local, State, and regional harmful algal blooms and
20 hypoxia.

21 “(b) REGIONAL FOCUS.—The regional and sub-
22 regional parts of the Action Strategy shall identify—

23 “(1) regional priorities for ecological, economic,
24 and social research on issues related to the impacts
25 of harmful algal blooms and hypoxia;

1 “(2) research, development, and demonstration
2 activities needed to develop and advance technologies
3 and techniques for minimizing the occurrence of
4 harmful algal blooms and hypoxia and improving ca-
5 pabilities to detect, predict, monitor, control, miti-
6 gate, respond to, and remediate harmful algal
7 blooms and hypoxia;

8 “(3) ways to reduce the duration and intensity
9 of harmful algal blooms and hypoxia, including de-
10 ployment of response technologies in a timely man-
11 ner;

12 “(4) research and methods to address human
13 health dimensions of harmful algal blooms and hy-
14 poxia;

15 “(5) mechanisms, including the potential costs
16 and benefits of those mechanisms, to protect eco-
17 systems that may be or have been affected by harm-
18 ful algal bloom and hypoxia events;

19 “(6) mechanisms by which data, information,
20 and products may be transferred between the Pro-
21 gram and the State, tribal, and local governments
22 and research entities;

23 “(7) communication and information dissemina-
24 tion methods that State, tribal, and local govern-
25 ments may undertake to educate and inform the

1 public concerning harmful algal blooms and hypoxia;
2 and

3 “(8) roles that Federal agencies may have to
4 assist in the implementation of the Action Strategy,
5 including efforts to support local and regional sci-
6 entific assessments under section 603(e).

7 “(c) UTILIZING AVAILABLE STUDIES AND INFORMA-
8 TION.—In developing the Action Strategy, the Under Sec-
9 retary shall utilize existing research, assessments, reports,
10 and program activities, including—

11 “(1) those carried out under existing law; and

12 “(2) other relevant peer-reviewed and published
13 sources.

14 “(d) DEVELOPMENT OF THE ACTION STRATEGY.—
15 In developing the Action Strategy, the Under Secretary
16 shall, as appropriate—

17 “(1) coordinate with—

18 “(A) State coastal management and plan-
19 ning officials;

20 “(B) tribal resource management officials;

21 and

22 “(C) water management and watershed of-
23 ficials from both coastal States and noncoastal
24 States with water sources that drain into water

1 bodies affected by harmful algal blooms and hy-
2 poxia; and

3 “(2) consult with—

4 “(A) public health officials;

5 “(B) emergency management officials;

6 “(C) science and technology development
7 institutions;

8 “(D) economists;

9 “(E) industries and businesses affected by
10 marine and freshwater harmful algal blooms
11 and hypoxia;

12 “(F) scientists with expertise concerning
13 harmful algal blooms or hypoxia from academic
14 or research institutions; and

15 “(G) other stakeholders.

16 “(e) FEDERAL REGISTER.—The Under Secretary
17 shall publish the Action Strategy in the Federal Register.

18 “(f) PERIODIC REVISION.—The Under Secretary, in
19 coordination and consultation with the individuals and en-
20 tities under subsection (d), shall periodically review and
21 revise the Action Strategy prepared under this section, as
22 necessary.”.

23 **SEC. 6. REPORTING.**

24 Section 603 is amended by adding at the end the fol-
25 lowing:

1 “(j) REPORT.—Not later than 2 years after the date
2 the Action Strategy is submitted under section 603B, the
3 Under Secretary shall submit a report to Congress that
4 describes—

5 “(1) the proceedings of the annual Task Force
6 meetings;

7 “(2) the activities carried out under the Pro-
8 gram, including the regional and subregional parts
9 of the Action Strategy;

10 “(3) the budget related to the activities under
11 paragraph (2);

12 “(4) the progress made on implementing the
13 Action Strategy; and

14 “(5) any need to revise or terminate research
15 and activities under the Program.”.

16 **SEC. 7. NORTHERN GULF OF MEXICO HYPOXIA.**

17 Section 604 is amended to read as follows:

18 **“SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.**

19 “(a) INITIAL PROGRESS REPORTS.—Beginning not
20 later than 12 months after the date of enactment of the
21 Harmful Algal Bloom and Hypoxia Research and Control
22 Amendments Act of 2013, and biennially thereafter, the
23 Administrator, through the Mississippi River/Gulf of Mex-
24 ico Watershed Nutrient Task Force, shall submit a
25 progress report to the appropriate congressional commit-

1 tees and the President that describes the progress made
 2 by activities directed by the Mississippi River/Gulf of Mex-
 3 ico Watershed Nutrient Task Force and carried out or
 4 funded by the Environmental Protection Agency and other
 5 State and Federal partners toward attainment of the goals
 6 of the Gulf Hypoxia Action Plan 2008.

7 “(b) CONTENTS.—Each report required under this
 8 section shall—

9 “(1) assess the progress made toward nutrient
 10 load reductions, the response of the hypoxic zone
 11 and water quality throughout the Mississippi/
 12 Atchafalaya River Basin, and the economic and so-
 13 cial effects;

14 “(2) evaluate lessons learned; and

15 “(3) recommend appropriate actions to continue
 16 to implement or, if necessary, revise the strategy set
 17 forth in the Gulf Hypoxia Action Plan 2008.”.

18 **SEC. 8. GREAT LAKES HYPOXIA AND HARMFUL ALGAL**

19 **BLOOMS.**

20 Section 605 is amended to read as follows:

21 **“SEC. 605. GREAT LAKES HYPOXIA AND HARMFUL ALGAL**

22 **BLOOMS.**

23 “(a) INTEGRATED ASSESSMENT.—Not later than 18
 24 months after the date of enactment of the Harmful Algal
 25 Bloom and Hypoxia Research and Control Amendments

1 Act of 2013, the Task Force, in accordance with the au-
2 thority under section 603, shall complete and submit to
3 the Congress and the President an integrated assessment
4 that examines the causes, consequences, and approaches
5 to reduce hypoxia and harmful algal blooms in the Great
6 Lakes, including the status of and gaps within current re-
7 search, monitoring, management, prevention, response,
8 and control activities by—

9 “(1) Federal agencies;

10 “(2) State agencies;

11 “(3) regional research consortia;

12 “(4) academia;

13 “(5) private industry; and

14 “(6) nongovernmental organizations.

15 “(b) PLAN.—

16 “(1) IN GENERAL.—Not later than 2 years
17 after the date of enactment of the Harmful Algal
18 Bloom and Hypoxia Research and Control Amend-
19 ments Act of 2013, the Task Force shall develop
20 and submit to the Congress a plan, based on the in-
21 tegrated assessment under subsection (a), for reduc-
22 ing, mitigating, and controlling hypoxia and harmful
23 algal blooms in the Great Lakes.

24 “(2) CONTENTS.—The plan shall—

1 “(A) address the monitoring needs identi-
2 fied in the integrated assessment under sub-
3 section (a);

4 “(B) develop a timeline and budgetary re-
5 quirements for deployment of future assets;

6 “(C) identify requirements for the develop-
7 ment and verification of Great Lakes hypoxia
8 and harmful algal bloom models, including—

9 “(i) all assumptions built into the
10 models; and

11 “(ii) data quality methods used to en-
12 sure the best available data are utilized;
13 and

14 “(D) describe efforts to improve the as-
15 sessment of the impacts of hypoxia and harmful
16 algal blooms by—

17 “(i) characterizing current and past
18 biological conditions in ecosystems affected
19 by hypoxia and harmful algal blooms; and

20 “(ii) quantifying effects, including
21 economic effects, at the population and
22 community levels.

23 “(3) REQUIREMENTS.—In developing the plan,
24 the Task Force shall—

1 “(A) consult with State and local govern-
2 ments and representatives from academic, agri-
3 cultural, industry, and other stakeholder
4 groups;

5 “(B) consult with relevant Canadian agen-
6 cies;

7 “(C) ensure that the plan complements
8 and does not duplicate activities conducted by
9 other Federal or State agencies;

10 “(D) identify critical research for reducing,
11 mitigating, and controlling hypoxia events and
12 their effects;

13 “(E) evaluate cost-effective, incentive-
14 based partnership approaches;

15 “(F) utilize existing research, assessments,
16 reports, and program activities;

17 “(G) publish a summary of the proposed
18 plan in the Federal Register at least 180 days
19 prior to submitting the completed plan to Con-
20 gress; and

21 “(H) after submitting the completed plan
22 to Congress, provide biennial progress reports
23 on the activities toward achieving the objectives
24 of the plan.”.

1 **SEC. 9. APPLICATION WITH OTHER LAWS.**

2 The Act is amended by adding after section 606 the
3 following:

4 **“SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.**

5 “Nothing in this title supersedes or limits the author-
6 ity of any agency to carry out its responsibilities and mis-
7 sions under other laws.”.

8 **SEC. 10. DEFINITIONS; CONFORMING AMENDMENT.**

9 (a) IN GENERAL.—The Act, as amended by section
10 9 of this Act, is further amended by adding after section
11 607 the following:

12 **“SEC. 608. DEFINITIONS.**

13 “In this title:

14 “(1) ACTION STRATEGY.—The term ‘Action
15 Strategy’ means the comprehensive research plan
16 and action strategy established under section 603B.

17 “(2) ADMINISTRATOR.—The term ‘Adminis-
18 trator’ means the Administrator of the Environ-
19 mental Protection Agency.

20 “(3) HARMFUL ALGAL BLOOM.—The term
21 ‘harmful algal bloom’ means marine and freshwater
22 phytoplankton that proliferate to high concentra-
23 tions, resulting in nuisance conditions or harmful
24 impacts on marine and aquatic ecosystems, coastal
25 communities, and human health through the produc-

1 tion of toxic compounds or other biological, chemical,
2 and physical impacts of the algae outbreak.

3 “(4) HYPOXIA.—The term ‘hypoxia’ means a
4 condition where low dissolved oxygen in aquatic sys-
5 tems causes stress or death to resident organisms.

6 “(5) PROGRAM.—The term ‘Program’ means
7 the national harmful algal bloom and hypoxia pro-
8 gram established under section 603A.

9 “(6) STATE.—The term ‘State’ means each of
10 the several States of the United States, the District
11 of Columbia, the Commonwealth of Puerto Rico, the
12 Virgin Islands, Guam, American Samoa, the Com-
13 monwealth of the Northern Mariana Islands, any
14 other territory or possession of the United States,
15 and any Indian tribe.

16 “(7) TASK FORCE.—The term ‘Task Force’
17 means the Inter-Agency Task Force on Harmful
18 Algal Blooms and Hypoxia under section 603(a).

19 “(8) UNDER SECRETARY.—The term ‘Under
20 Secretary’ means the Under Secretary of Commerce
21 for Oceans and Atmosphere.

22 “(9) UNITED STATES COASTAL WATERS.—The
23 term ‘United States coastal waters’ includes the
24 Great Lakes.”.

1 (b) CONFORMING AMENDMENT.—Section 603(a) is
2 amended by striking “(hereinafter referred to as the ‘Task
3 Force’)”.

4 **SEC. 11. INTERAGENCY FINANCING.**

5 The Act, as amended by section 10 of this Act, is
6 further amended by adding after section 608 the following:

7 **“SEC. 609. INTERAGENCY FINANCING.**

8 “The departments and agencies represented on the
9 Task Force may participate in interagency financing and
10 share, transfer, receive, obligate, and expend funds appro-
11 priated to any member of the Task Force for the purposes
12 of carrying out any administrative or programmatic
13 project or activity under this title, including support for
14 the Program, a common infrastructure, information shar-
15 ing, and system integration for harmful algal bloom and
16 hypoxia research, monitoring, forecasting, prevention, and
17 control. Funds may be transferred among the departments
18 and agencies through an appropriate instrument that
19 specifies the goods, services, or space being acquired from
20 another Task Force member and the costs of the goods,
21 services, and space. The amount of funds transferrable
22 under this section for any fiscal year may not exceed 5
23 percent of the account from which the transfer was
24 made.”.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 The Act, as amended by section 11 of this Act, is
3 further amended by adding after section 609 the following:

4 **“SEC. 610. AUTHORIZATION OF APPROPRIATIONS.**

5 “(a) **IN GENERAL.**—There is authorized to be appro-
6 priated to the Under Secretary to carry out sections 603A
7 and 603B \$20,500,000 for each of fiscal years 2014
8 through 2018.

9 “(b) **EXTRAMURAL RESEARCH ACTIVITIES.**—The
10 Under Secretary shall ensure that a substantial portion
11 of funds appropriated pursuant to subsection (a) that are
12 used for research purposes are allocated to extramural re-
13 search activities. For each fiscal year, the Under Secretary
14 shall publish a list of all grant recipients and the amounts
15 for all of the funds allocated for research purposes, speci-
16 fying those allocated for extramural research activities.”.

○