

113TH CONGRESS  
1ST SESSION

# S. 1254

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

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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

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## 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 **“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.”.

○