

MARINE DEBRIS EMERGENCY ACT OF 2013

APRIL 2, 2014.—Ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 1425]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1425) to amend the Marine Debris Act to better address severe marine debris events, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1425 is to amend the Marine Debris Act to better address severe marine debris events.

BACKGROUND AND NEED FOR LEGISLATION

The Marine Debris Research, Prevention, and Reduction Act (Public Law 109-449) was enacted in 2006 to legislatively authorize the marine debris program within the National Oceanic and Atmospheric Administration (NOAA). The program supports national and international efforts to research, prevent, and reduce the impacts of marine debris. The program coordinates and supports activities within NOAA and with other federal agencies. It also supports local and regional projects through grants issued to state and local agencies, tribes, non-governmental organizations, academia, and industry.

The law was amended in the 112th Congress (Public Law 112-213). The amendments modified the Act to: rename the law as the “Marine Debris Act,” strike outdated provisions; rename the program the Marine Debris Program; revise the program components to include “identifying, determining sources of, assessing, preventing, reducing, and removing marine debris”; make the annual

reports biennial; expand the confidentiality provisions to all industries that submit information; define “severe marine debris event” and codify the existing NOAA and U.S. Coast Guard marine debris definition; and require NOAA to determine whether the March 2011 Tohoku earthquake and subsequent tsunami and the October 2012 hurricane Sandy each caused a severe marine debris event and if that determination is made, report to certain Congressional committees. The law did not require any further action after NOAA reported to Congress.

H.R. 1425 would further amend the Marine Debris Act to establish a shortened and priority grant process for grants addressing severe marine debris events. NOAA would have 60 days to approve or disapprove the grants. If the grant is approved, grant funds would also be approved and preference for grant funding would be for those grants addressing severe marine debris events, including any that have or are likely to introduce marine invasive species. H.R. 1425 would allow governors to request NOAA to make a severe marine debris determination and would require a response within 30 days, either a declaration or a response why a declaration wasn’t made. The bill would also require NOAA to educate grant recipients to address marine invasive species that may be associated with the marine debris. The bill also defines “marine invasive species” as “marine nonindigenous species” as defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 that will or is likely to: cause economic or environmental harm; threaten diversity or abundance of native species or the ecological stability of infested waters; or disrupt commercial, agricultural, aquacultural, or recreational activities dependent on the infested waters.

COMMITTEE ACTION

H.R. 1425 was introduced on April 9, 2013, by Congresswoman Suzanne Bonamici (D-OR). The bill was referred to the Committee on Transportation and Infrastructure and in addition to the Committee on Natural Resources. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs. On June 13, 2013, the Subcommittee held a hearing on the bill. On December 4, 2013, the Natural Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs was discharged by unanimous consent. Congressman Don Young (R-AK) offered an amendment designated .002 to the bill; the amendment was adopted by unanimous consent. No further amendments were offered and the bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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H.R. 1425 would direct the National Oceanic and Atmospheric Administration (NOAA) to process applications for certain grants within 60 days, if feasible. The bill also would authorize the agency to prioritize grant funding for certain events involving marine debris. Finally, if the governor of a state requests that NOAA make priority funding available for a particular marine debris event, the agency must determine whether the event is eligible for such funding within 30 days.

Based on information provided by NOAA, CBO estimates that implementing the bill would have no significant impact on the federal budget. Because, under the bill, the agency would have discretion over whether to expedite the processing of grant applications and make priority funding available, CBO expects that implementing the bill would have a minimal impact on the agency's workload. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1425 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that implementing the bill would have no significant impact on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Marine Debris Act to better address severe marine debris events.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in roman):

MARINE DEBRIS ACT

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SEC. 3. NOAA MARINE DEBRIS PROGRAM.

(a) **ESTABLISHMENT OF PROGRAM.**—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Program to identify, determine sources of, assess, prevent, reduce, and remove marine debris and address the adverse impacts of marine debris on the economy of the United States, the marine environment, and navigation safety.

(b) **PROGRAM COMPONENTS.**—The Administrator, acting through the Program and subject to the availability of appropriations, shall—

(1) identify, determine sources of, assess, prevent, reduce, and remove marine debris, with a focus on marine debris posing a threat to living marine resources and navigation safety;

(2) provide national and regional coordination to assist States, Indian tribes, and regional organizations in the identification, determination of sources, assessment, prevention, reduction, and removal of marine debris;

(3) undertake efforts to reduce the adverse impacts of lost and discarded fishing gear on living marine resources and navigation safety, including—

(A) research and development of alternatives to gear posing threats to the marine environment and methods for marking gear used in certain fisheries to enhance the

tracking, recovery, and identification of lost and discarded gear; and

(B) the development of effective nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in gear recovery;

(4) undertake outreach and education activities for the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identifying, determining sources of, assessing, preventing, reducing, and removing marine debris and its adverse impacts on the United States economy, the marine environment, and navigation safety, including outreach and education activities through public-private initiatives; and

(5) develop, in consultation with the Interagency Committee, interagency plans for the timely response to events determined by the Administrator to be severe marine debris events, including plans to—

(A) coordinate across agencies and with relevant State, tribal, and local governments to ensure adequate, timely, and efficient response;

(B) assess the composition, volume, and trajectory of marine debris associated with a severe marine debris event; and

(C) estimate the potential impacts of a severe marine debris event, including economic impacts on human health, navigation safety, natural resources, tourism, and livestock, including aquaculture.

(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

(1) IN GENERAL.—The Administrator, acting through the Program, shall enter into cooperative agreements and contracts and provide financial assistance in the form of grants for projects to accomplish the purpose set forth in section 2.

(2) GRANT COST SHARING REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), Federal funds for any grant under this section may not exceed 50 percent of the total cost of such project. For purposes of this subparagraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(B) WAIVER.—The Administrator may waive all or part of the matching requirement under subparagraph (A) if the Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(3) AMOUNTS PAID AND SERVICES RENDERED UNDER CONSENT.—

(A) CONSENT DECREES AND ORDERS.—If authorized by the Administrator or the Attorney General, as appropriate, the non-Federal share of the cost of a project carried out under this Act may include money paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree that will remove or prevent marine debris.

(B) OTHER DECREES AND ORDERS.—The non-Federal share of the cost of a project carried out under this Act may not include any money paid pursuant to, or the value of any in-kind service performed under, any other administrative order or court order.

(4) ELIGIBILITY.—Any State, local, or tribal government whose activities affect research or regulation of marine debris, and any institution of higher education, nonprofit organization, or commercial organization with expertise in a field related to marine debris, is eligible to submit to the Administrator a marine debris proposal under the grant program.

(5) PROJECT REVIEW AND APPROVAL.—The Administrator shall—

(A) review each marine debris project proposal to determine if it meets the grant criteria and supports the goals of this Act;

(B) after considering any written comments and recommendations based on the review, approve or disapprove the proposal; and

(C) provide notification of that approval or disapproval to the person who submitted the proposal.

(6) PROJECT REPORTING.—Each grantee under this section shall provide periodic reports as required by the Administrator. Each report shall include all information required by the Administrator for evaluating the progress and success in meeting its stated goals, and impact of the grant activities on the marine debris problem.

(d) SEVERE MARINE DEBRIS EVENTS.—

(1) PRIORITY CONSIDERATION AND DISBURSEMENT.—*Not later than 60 days after receiving an application for a grant under subsection (c) with respect to a severe marine debris event, the Administrator shall, to the extent feasible—*

(A) approve or disapprove the application; and

(B) if approving the application, provide the approved grant funds to the grant recipient.

(2) PREFERENCE.—*In evaluating applications for grants under subsection (c), the Administrator shall give preference to projects that address severe marine debris events, including projects that address a severe marine debris event that has introduced or is likely to introduce marine invasive species to the United States.*

(3) REQUEST FOR A DECLARATION.—

(A) IN GENERAL.—*The Governor of a State may request that the Administrator declare a severe marine debris event, in such State or a region that includes such State, for purposes of paragraphs (1) and (2).*

(B) RESPONSE TO REQUESTS.—*Not later than 30 days after receiving a request under subparagraph (A), the Administrator shall either—*

(i) declare a severe marine debris event with respect to the request; or

(ii) provide a response to the Governor who submitted the request, explaining why the Administrator has not declared a severe marine debris event with respect to the request.

(e) *GUIDANCE.*—*The Administrator shall take appropriate steps to encourage recipients of grants under this section to—*

(1) educate staff and volunteers engaged in marine debris response efforts on the potential threats that marine debris and marine invasive species may pose to the United States with respect to living marine resources, the marine environment, navigation, and public health; and

(2) coordinate marine debris response efforts with appropriate Federal, State, and local government and nongovernmental entities.

(f) *MARINE INVASIVE SPECIES DEFINED.*—*In this section, the term “marine invasive species” means a marine nonindigenous species (as defined in section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702)) the introduction of which to the United States will, or is likely to—*

(1) cause economic or environmental harm;

(2) threaten the diversity or abundance of native species or the ecological stability of infested waters; or

(3) disrupt commercial, agricultural, aquacultural, or recreational activities dependent on infested waters.

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