

118TH CONGRESS  
1ST SESSION

# H. R. 6235

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2023

Ms. BONAMICI (for herself and Mr. JOYCE of Ohio) introduced the following bill; which was referred to the Committee on Science, Space, and Technology, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Harmful Algal Blooms 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,*

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 2023”.

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

4 (a) ASSESSMENTS.—Section 603 of the Harmful  
5 Algal Blooms and Hypoxia Research and Control Act of  
6 1998 (33 U.S.C. 4001) is amended—

7 (1) in subsection (a)—

8 (A) in the subsection heading, by striking  
9 “INTER-AGENCY TASK FORCE” and inserting  
10 “INTERAGENCY WORKING GROUP”; and

11 (B) in the matter preceding paragraph (1),  
12 by striking “an Inter-Agency Task Force on  
13 Harmful Algal Blooms and Hypoxia.” and in-  
14 serting “an Interagency Working Group on  
15 Harmful Algal Blooms and Hypoxia (hereafter  
16 referred to as the ‘Task Force’).”;

17 (2) by striking subsections (b), (c), (d), (e), (h),  
18 and (i) and redesignating subsections (f) and (g) as  
19 subsections (b) and (c), respectively;

20 (3) in subsection (b), as so redesignated—

21 (A) in paragraph (1), by striking “coastal  
22 waters including the Great Lakes” and insert-  
23 ing “marine and freshwater systems”; and

24 (B) in paragraph (2)—

25 (i) by amending subparagraph (A) to  
26 read as follows:

1           “(A) examine the causes and ecological  
2 consequences of low oxygen on marine and  
3 aquatic species in their natural environments,  
4 the social and economic costs of hypoxia, and  
5 the cultural impacts of hypoxia;”;

6           (ii) by redesignating subparagraphs  
7 (B) through (D) as subparagraphs (C)  
8 through (E), respectively;

9           (iii) by inserting after subparagraph  
10 (A) the following new subparagraph:

11           “(B) examine the effect of other environ-  
12 mental stressors on hypoxia;”;

13           (iv) in subparagraph (C), as so redesi-  
14 gnated, by inserting “, social,” after “eco-  
15 logical”; and

16           (v) in subparagraph (D), as so redesi-  
17 gnated, by striking “hypoxia modeling and  
18 monitoring data” and inserting “hypoxia  
19 modeling, forecasting, and monitoring and  
20 observation data”; and

21           (4) in subsection (c), as so redesignated, by  
22 mending such subsection to read as follows:

23           “(c) ACTION STRATEGY AND SCIENTIFIC ASSESS-  
24 MENT FOR MARINE AND FRESHWATER HARMFUL ALGAL  
25 BLOOMS.—

1           “(1) Not less often than once every five years,  
2           the Task Force shall complete and submit to Con-  
3           gress an action strategy, including a scientific as-  
4           sessment, for harmful algal blooms in the United  
5           States (in this Act referred to as the ‘Action Strat-  
6           egy’). Each such Action Strategy, including scientific  
7           assessment, shall examine both marine and fresh-  
8           water harmful algal blooms, including those in the  
9           Great Lakes and upper reaches of estuaries, those in  
10          freshwater lakes and rivers, and those that originate  
11          in freshwater lakes or rivers and migrate to coastal  
12          waters.

13           “(2) Each Action Strategy under this sub-  
14          section shall—

15                   “(A) examine the causes and ecological  
16                   consequences, and the economic, social, and cul-  
17                   tural impacts of harmful algal blooms;

18                   “(B) examine the effect of other environ-  
19                   mental stressors on harmful algal blooms;

20                   “(C) examine potential methods to prevent,  
21                   control, and mitigate harmful algal blooms and  
22                   the potential ecological, social, cultural, and  
23                   economic costs and benefits of such methods;

24                   “(D) identify priorities for research needed  
25                   to advance techniques and technologies to de-

1 tect, predict, monitor, respond to, and minimize  
2 the occurrence, duration, and severity of harm-  
3 ful algal blooms, including recommendations to  
4 eliminate significant gaps in harmful algal  
5 bloom forecasting, monitoring, and observation  
6 data;

7 “(E) evaluate progress made by, and the  
8 needs of, Task Force activities and actions to  
9 prevent, control, and mitigate harmful algal  
10 blooms;

11 “(F) identify ways to improve coordination  
12 and prevent unnecessary duplication of effort  
13 among Federal departments and agencies with  
14 respect to research on harmful algal blooms;  
15 and

16 “(G) include regional chapters relating to  
17 the requirements described in this paragraph in  
18 order to highlight geographically and eco-  
19 logically diverse locations with significant eco-  
20 logical, social, cultural, and economic impacts  
21 from harmful algal blooms.”.

22 (b) CONSULTATIONS.—Section 102 of the Harmful  
23 Algal Bloom and Hypoxia Amendments Act of 2004 (33  
24 U.S.C. 4001a) is amended—

25 (1) by striking “the coastal”;

1 (2) by inserting “and” after “Indian tribes,”;

2 (3) by inserting “and” after “local govern-  
3 ments,”; and

4 (4) by striking “with expertise in coastal zone  
5 science and management”.

6 (c) NATIONAL HARMFUL ALGAL BLOOM AND HY-  
7 POXIA PROGRAM.—Section 603A of the Harmful Algal  
8 Blooms and Hypoxia Research and Control Act of 1998  
9 (33 U.S.C. 4002) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (1), by striking “pre-  
12 dicting,” and inserting “monitoring, observing,  
13 forecasting,”; and

14 (B) in paragraph (2), by striking “com-  
15 prehensive research plan and action strategy  
16 under section 603B” and inserting “the Action  
17 Strategy, including scientific assessment, under  
18 section 603(c)”;

19 (2) in subsection (c)—

20 (A) in paragraph (3), by striking “ocean  
21 and Great Lakes” and inserting “marine,  
22 estuarian, and freshwater systems”; and

23 (B) in paragraph (5), by inserting “while  
24 recognizing each agency is acting under its own

1 independent mission and authority” before the  
2 semicolon;

3 (3) in subsection (d), by striking “Except as  
4 provided in subsection (h), the” and inserting  
5 “The”;

6 (4) in subsection (e)—

7 (A) by amending paragraph (2) to read as  
8 follows:

9 “(2) examine, in collaboration with State, local,  
10 and Tribal entities, including island communities,  
11 low-population rural communities, Indigenous com-  
12 munities, subsistence communities, fisheries, and  
13 recreation industries that are most dependent on  
14 coastal and water resources that may be impacted  
15 by marine and freshwater harmful algal blooms and  
16 hypoxia, the causes, ecological consequences, cultural  
17 impacts, and social and economic costs of harmful  
18 algal blooms and hypoxia;”;

19 (B) by striking paragraph (3);

20 (C) by redesignating paragraphs (4), (5),  
21 and (6) as paragraphs (3), (4), and (5), respec-  
22 tively;

23 (D) in paragraph (3), as so redesignated—

24 (i) by striking “to, regional” and in-  
25 sserting “to regional”; and

1 (ii) by striking “agencies” and insert-  
2 ing “entities, and regional coastal observ-  
3 ing systems (as such term is defined in  
4 section 12330(6) of the Integrated Coastal  
5 and Ocean Observation System Act of  
6 2009 (33 U.S.C. 3602(6))”;

7 (E) in paragraph (5), as so redesignated,  
8 by inserting “and communities” after “eco-  
9 systems”;

10 (F) by inserting after paragraph (5) the  
11 following new paragraph:

12 “(6) support sustained observations to provide  
13 State, local, and Tribal entities and others access to  
14 real-time or near real-time observation data for deci-  
15 sion-making to protect human and ecological health  
16 and local economies;”;

17 (G) in paragraph (8), by striking “State  
18 and local” and inserting “State, local, and Trib-  
19 al”; and

20 (H) in paragraph (9)(A), by striking “trib-  
21 al” and inserting “Tribal”;

22 (5) by amending subsections (f) and (g) to read  
23 as follows:

24 “(f) COOPERATIVE EFFORTS.—The Under Secretary  
25 shall work cooperatively with and avoid duplication of ef-



1 fort of other agencies on the Task Force, and with and  
2 of States, Indian tribes, and nongovernmental organiza-  
3 tions concerned with marine and freshwater issues, and  
4 shall coordinate harmful algal bloom and hypoxia and re-  
5 lated activities and research.

6 “(g) FRESHWATER PROGRAM DUTIES.—The Admin-  
7 istrator, in coordination with the Task Force, shall carry  
8 out the duties under subsection (e) for freshwater aspects  
9 of the Program.”;

10 (6) by striking subsection (h); and

11 (7) by redesignating subsection (i) as subsection  
12 (h).

13 (d) NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-  
14 ISTRATION ACTIVITIES.—

15 (1) IN GENERAL.—The Harmful Algal Blooms  
16 and Hypoxia Research and Control Act of 1998 is  
17 amended by amending section 603B (33 U.S.C.  
18 4003) to read as follows:

19 **“SEC. 603B. NATIONAL OCEANIC AND ATMOSPHERIC AD-  
20 MINISTRATION ACTIVITIES.**

21 “(a) IN GENERAL.—The Under Secretary shall—

22 “(1) carry out marine, coastal, and Great  
23 Lakes harmful algal bloom and hypoxia events re-  
24 sponse activities;

1           “(2) develop and enhance operational harmful  
2 algal bloom observing and forecasting programs, in-  
3 cluding operational observations and forecasting,  
4 monitoring, modeling, data management, and infor-  
5 mation dissemination;

6           “(3) maintain and enhance the existing peer-re-  
7 viewed, merit-based, competitive grant funding relat-  
8 ing to harmful algal blooms and hypoxia to—

9                   “(A) maintain and enhance baseline moni-  
10 toring programs established by the Program;

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

13                   “(C) address the research and manage-  
14 ment needs and priorities identified in the Ac-  
15 tion Strategy under section 603(c);

16                   “(D) accelerate the utilization of effective  
17 methods of intervention and mitigation to re-  
18 duce the frequency, severity, and impacts of  
19 harmful algal bloom and hypoxia events;

20                   “(E) identify opportunities to improve  
21 monitoring of harmful algal bloom and hypoxia,  
22 with a particular focus on coastal waters that  
23 may affect fisheries, public health, or subsist-  
24 ence harvest;

1           “(F) examine the effects of other environ-  
2           mental stressors on harmful algal blooms and  
3           hypoxia;

4           “(G) assess the effects of multiple environ-  
5           mental stressors on living marine resources and  
6           coastal ecosystems; and

7           “(H) evaluate adaptation and mitigation  
8           strategies to address the impacts of harmful  
9           algal blooms and hypoxia;

10          “(4) enhance communication and coordination  
11          among Federal agencies carrying out marine and  
12          freshwater harmful algal bloom and hypoxia activi-  
13          ties and research;

14          “(5) to the greatest extent practicable, leverage  
15          existing resources and expertise available from local  
16          research universities and institutions; and

17          “(6) use cost effective methods in carrying out  
18          this section.

19          “(b) INTEGRATED COASTAL AND OCEAN OBSERVA-  
20          TION SYSTEM.—The collection of monitoring and observ-  
21          ing data under this section shall comply with all data  
22          standards and protocols developed pursuant to the Inte-  
23          grated Coastal and Ocean Observation System Act of  
24          2009 (33 U.S.C. 3601 et seq.). Such data shall be made  
25          available through the system established under that Act.”.



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

4           “(5) use cost effective methods in carrying out  
5 this section.”.

6           (2) CLERICAL AMENDMENT.—The table of con-  
7 tents in section 2 of the Coast Guard Authorization  
8 Act of 1998 is amended by inserting after the time  
9 relating to section 603B, as amended by subsection  
10 (e), the following new item:

“Sec. 603C. Environmental Protection Agency activities.”.

11          (f) NATIONAL HARMFUL ALGAL BLOOM AND HY-  
12 POXIA OBSERVING NETWORK.—

13           (1) IN GENERAL.—The Harmful Algal Blooms  
14 and Hypoxia Research and Control Act of 1998 is  
15 amended by amending section 606 (33 U.S.C. 4005)  
16 to read as follows:

17 **“SEC. 606. NATIONAL HARMFUL ALGAL BLOOM OBSERVING**  
18 **NETWORK.**

19          “(a) IN GENERAL.—The Under Secretary, acting  
20 through the National Centers for Coastal Ocean Science  
21 (NCCOS) and the Integrated Ocean Observing System  
22 (IOOS) of the National Oceanic and Atmospheric Admin-  
23 istration, shall establish a national network of harmful  
24 algal bloom observing systems for the monitoring, detec-  
25 tion, and forecasting of harmful algal blooms by leveraging

1 the capacity of IOOS regional associations, including  
2 through the incorporation of emerging technologies and  
3 new data integration methods, such as artificial intel-  
4 ligence.

5 “(b) COORDINATION.—In carrying out subsection  
6 (a), the IOOS Program Office shall—

7 “(1) coordinate with NCCOS regarding obser-  
8 vations, data integration, and information dissemi-  
9 nation; and

10 “(2) establish a Harmful Algal Bloom Data As-  
11 sembly Center to integrate, disseminate, and provide  
12 a central architecture to support ecological fore-  
13 casting.”.

14 (2) CLERICAL AMENDMENT.—The table of con-  
15 tents in section 2 of the Coast Guard Authorization  
16 Act of 1998 is amended by amending the item relat-  
17 ing to section 606 to read as follows:

“Sec. 606. National harmful algal bloom observing network.”.

18 (g) DEFINITIONS.—Section 609 of the Harmful Algal  
19 Blooms and Hypoxia Research and Control Act of 1998  
20 (33 U.S.C. 4008) is amended—

21 (1) in paragraph (1), by striking “means the  
22 comprehensive research plan and action strategy es-  
23 tablished under section 603B” and inserting “means  
24 the action strategy, including scientific assessment,

1 for marine and freshwater harmful algal blooms es-  
2 tablished under section 603(c)”;

3 (2) by amending paragraph (3) to read as fol-  
4 lows:

5 “(3) APPROPRIATE FEDERAL OFFICIAL.—The  
6 term ‘appropriate Federal official’ means—

7 “(A) in the case of coastal hypoxia or  
8 harmful algal bloom event, including those in  
9 estuarine areas, the Under Secretary of Com-  
10 merce for Oceans and Atmosphere; and

11 “(B) in the case of a freshwater hypoxia or  
12 harmful algal bloom event, the Administrator of  
13 the Environmental Protection Agency, in con-  
14 sultation with the Under Secretary of Com-  
15 merce for Oceans and Atmosphere.”.

16 (3) by striking paragraph (9);

17 (4) by redesignating paragraphs (4), (5), (6),  
18 (7), and (8) as paragraphs (6), (7), (9), (10), and  
19 (11);

20 (5) by inserting after paragraph (3) the fol-  
21 lowing new paragraphs:

22 “(4) HARMFUL ALGAL BLOOM; HARMFUL  
23 ALGAL BLOOM AND HYPOXIA EVENT.—

24 “(A) HARMFUL ALGAL BLOOM.—The term  
25 ‘harmful algal bloom’ means marine or fresh-

1 water algae or macroalgae, including  
2 Sargassum, that proliferate to high concentra-  
3 tions, resulting in nuisance conditions or harm-  
4 ful impacts on marine and freshwater eco-  
5 systems, communities, or human health through  
6 the production of toxic compounds or other bio-  
7 logical, chemical, or physical impacts of the  
8 algae outbreak.

9 “(B) HARMFUL ALGAL BLOOM AND HY-  
10 POXIA EVENT.—The term ‘harmful algal bloom  
11 and hypoxia event’ means the occurrence of a  
12 harmful algal bloom or hypoxia as a result of  
13 a natural, anthropogenic, or undetermined  
14 cause.

15 “(5) HARMFUL ALGAL BLOOM OR HYPOXIA  
16 EVENT OF SIGNIFICANCE.—The term ‘event of sig-  
17 nificance’ means a harmful algal bloom or hypoxia  
18 event that has had or will likely have significant det-  
19 rimental environmental, economic, social, subsistence  
20 use, or public health impacts.”;

21 (6) in paragraph (6), as so redesignated—

22 (A) by striking “aquatic” and inserting  
23 “marine or freshwater”; and

24 (B) by striking “resident” and inserting  
25 “marine or freshwater”;



1           (7) by inserting after paragraph (7), as so re-  
2 designated, the following new paragraph:

3           “(9 - 8) SUBSISTENCE USE.—The term ‘sub-  
4 sistence use’ means the customary and traditional  
5 use of fish, wildlife, or other freshwater, coastal, or  
6 marine resources by any individual or community to  
7 meet personal or family needs, including essential  
8 economic, nutritional, or cultural applications.”; and

9           (8) in paragraph (10), as so redesignated, by  
10 striking “Inter-Agency Task Force” and inserting  
11 “Interagency Working Group”.

12       (h) AUTHORIZATION OF APPROPRIATIONS.—Section  
13 610 of the Harmful Algal Blooms and Hypoxia Research  
14 and Control Act of 1998 (33 U.S.C. 4009) is amended—

15           (1) by amending subsection (a) to read as fol-  
16 lows:

17           “(a) IN GENERAL.—There is authorized to be appro-  
18 priated to the Under Secretary to carry out this title  
19 \$34,600,000 for each of fiscal years 2024 through 2028.”;  
20 and

21           (2) by adding at the end the following new sub-  
22 section:

23           “(c) TRANSFER AUTHORITY.—The Under Secretary  
24 is authorized to make a direct non-expenditure transfer  
25 of funds authorized to be appropriated pursuant to sub-

1 section (a) to the head of any Federal department or agen-  
2 cy, with the concurrence of such head, to carry out, as  
3 appropriate, relevant provisions of this title.”.

4 (i) NATIONAL LEVEL INCUBATOR PROGRAM; HARM-  
5 FUL ALGAL BLOOM OR HYPOXIA EVENT OF SIGNIFI-  
6 CANCE.—

7 (1) IN GENERAL.—The Harmful Algal Blooms  
8 and Hypoxia Research and Control Act of 1998 is  
9 amended by adding at the end the following new sec-  
10 tions:

11 **“SEC. 611. NATIONAL LEVEL INCUBATOR PROGRAM.**

12 “(a) IN GENERAL.—The Under Secretary, in collabo-  
13 ration with research universities and institutions, shall es-  
14 tablish a national level incubator program to increase the  
15 number of available control strategies and technologies re-  
16 lating to harmful algal blooms. Such incubator shall estab-  
17 lish a framework for preliminary assessments of novel  
18 harmful algal bloom prevention, mitigation, and control  
19 technologies in order to determine the potential for effec-  
20 tiveness and scalability.

21 “(b) OPERATION.—The incubator under subsection  
22 (a) shall provide merit-based funding for harmful algal  
23 bloom control strategies and technologies that eliminate  
24 or reduce through biological, chemical, or physical means  
25 the levels of harmful algae and associated toxins.

1 “(c) DATABASE.—The incubator under subsection (a)  
2 shall establish a database to—

3 “(1) catalog the economic costs, feasibility, ef-  
4 fectiveness, and scalability of both novel and estab-  
5 lished prevention, control, and mitigation measures;  
6 and

7 “(2) clarify the licensing and permitting re-  
8 quirements regulating the application of such meas-  
9 ures.

10 “(d) PRIORITIZATION.—In carrying out the incubator  
11 under subsection (a), the Under Secretary shall prioritize  
12 proposed activities that would—

13 “(1) protect key habitats for fish and wildlife;

14 “(2) maintain biodiversity;

15 “(3) protect public health;

16 “(4) protect coastal resources of national, his-  
17 torical, and cultural significance; and

18 “(5) benefit communities of color, low-income  
19 communities, Tribal or Indigenous communities, and  
20 rural communities.

21 **“SEC. 612. HARMFUL ALGAL BLOOM OR HYPOXIA EVENT OF**  
22 **SIGNIFICANCE.**

23 “(a) EVENT OF SIGNIFICANCE FUND.—

24 “(1) ESTABLISHMENT.—There is established in  
25 the Treasury of the United States a fund to be

1 known as the ‘Harmful Algal Bloom and Hypoxia  
2 Event of Significance Fund’ (in this section referred  
3 to as the ‘Fund’).

4 “(2) DEPOSITS INTO FUND.—

5 “(A) IN GENERAL.—There shall be depos-  
6 ited into the Fund the following:

7 “(i) Amounts appropriated to the  
8 Fund.

9 “(ii) Amounts transferred to the Fund  
10 under paragraph (3).

11 “(iii) Amounts received by the United  
12 States in the form of gifts, devises, and be-  
13 quests under paragraph (4).

14 “(B) AVAILABILITY.—Amounts deposited  
15 into the Fund shall be available without fiscal  
16 year limitation.

17 “(3) TRANSFER AUTHORITY.—Notwithstanding  
18 any other provision of law, from amounts appro-  
19 priated to the National Oceanic and Atmospheric  
20 Administration, the Under Secretary may transfer  
21 up to \$2,000,000 to the Fund each fiscal year.

22 “(4) ACCEPTANCE OF DONATIONS.—For pur-  
23 poses of carrying out this section, the Under Sec-  
24 retary may accept, solicit, receive, hold, administer,

1 and use gifts, devises, and bequests without any fur-  
2 ther approval or administrative action.

3 “(5) CONTRACT, GRANT, AND COOPERATIVE  
4 AGREEMENT AUTHORITY.—The Under Secretary  
5 may enter into agreements and grants with States,  
6 Indian tribes, or local governments, or other entities  
7 to pay for or reimburse costs incurred for the pur-  
8 poses of supporting the determination of and assess-  
9 ing the environmental, economic, social, subsistence  
10 use, and public health effects of a harmful algal  
11 bloom or hypoxia event of significance.

12 “(6) STEERING COMMITTEE.—

13 “(A) IN GENERAL.—Not later than 12  
14 months after the date of the enactment of this  
15 section, the President, acting through the  
16 Under Secretary, shall establish a steering com-  
17 mittee to assist in evaluating information and  
18 data submitted by eligible requesters under sub-  
19 section (b)(1) in the event of a harmful algal  
20 bloom or hypoxia event of significance, in ac-  
21 cordance with the considerations described in  
22 subsection (c)(3) and the Event of Significance  
23 Policy under subsection (c).

24 “(B) MEMBERSHIP.—The steering com-  
25 mittee established under this paragraph shall

1 consist of individuals with knowledge and expe-  
2 rience in aquatic or marine science, harmful  
3 algal bloom or hypoxia science, harmful algal  
4 bloom or hypoxia monitoring and forecasting, or  
5 harmful algal bloom or hypoxia prevention,  
6 mitigation, and control.

7 “(C) CHARTER.—The Under Secretary  
8 shall develop and prescribe a charter for the  
9 steering committee established under this para-  
10 graph. Such charter shall reflect the full scope  
11 of the duties and activities of the steering com-  
12 mittee.

13 “(D) EXEMPTION.—Chapter 10 of title 5,  
14 United States Code, shall not apply to the  
15 steering committee established under this para-  
16 graph.

17 “(7) AVAILABILITY OF FUNDS.—Upon the sub-  
18 mission of a request for a harmful algal bloom or  
19 hypoxia event of significance determination under  
20 subsection (b), the appropriate Federal official is au-  
21 thorized to make sums, from funds appropriated to  
22 the Fund, available to the affected State, local, or  
23 Tribal government for the purposes of supporting  
24 the determination of and assessing the environ-

1 mental, economic, social, subsistence use, and public  
2 health effects of such event.

3 “(b) REQUESTS AND DETERMINATIONS.—

4 “(1) ELIGIBLE REQUESTERS.—Not later than  
5 two years after the beginning date of a harmful algal  
6 bloom or hypoxia event of significance, a request for  
7 a harmful algal bloom or hypoxia event of signifi-  
8 cance determination may be submitted to the appro-  
9 priate Federal official, if the appropriate Federal of-  
10 ficial has not independently determined that such an  
11 event of significance has occurred, by any of the fol-  
12 lowing:

13 “(A) The Governor of an affected State.

14 “(B) A leadership official of an affected  
15 Indian Tribe.

16 “(C) The executive official of the District  
17 of Columbia or a territory or possession of the  
18 United States, including Puerto Rico, the Vir-  
19 gin Islands, Guam, the Commonwealth of the  
20 Northern Mariana Islands, and the Trust Terri-  
21 tories of the Pacific Islands, and American  
22 Samoa, if affected.

23 “(D) Any other comparable elected or po-  
24 litically appointed representative as determined  
25 by the Secretary, if affected.

1           “(2) HARMFUL ALGAL BLOOM OR HYPOXIA  
2           EVENT OF SIGNIFICANCE DETERMINATION.—At the  
3           discretion of an appropriate Federal official, or at  
4           the request of an eligible requester under sub-  
5           section(b)(1), an appropriate Federal official, in con-  
6           sultation with the Steering Committee and NOAA,  
7           shall determine whether a harmful algal bloom or  
8           hypoxia event is an event of significance.

9           “(3) CONSIDERATIONS.—In making a deter-  
10          mination under paragraph (2), the appropriate Fed-  
11          eral official shall consider such factors as the fol-  
12          lowing:

13                 “(A) The risk to public health and the po-  
14                 tential severity of the detrimental environmental  
15                 effects of the harmful algal bloom or hypoxia  
16                 event at issue.

17                 “(B) The potential to spread, the potential  
18                 economic, social, and subsistence use impacts of  
19                 such event.

20                 “(C) The relative magnitude of impacts in  
21                 relation to past occurrences of harmful algal  
22                 blooms or hypoxia events that occur on a recur-  
23                 rent or annual basis.

24                 “(D) The geographic scope, including the  
25                 potential to affect several municipalities, to af-



1           fect more than one State, or to cross an inter-  
2           national boundary.

3           “(4) MITIGATION RELIEF.—Upon determina-  
4           tion that a harmful algal bloom or hypoxia event of  
5           significance has occurred under paragraph (2), the  
6           appropriate Federal official is authorized to make  
7           sums available, from funds appropriated for such  
8           purposes, to be used by the affected State, Tribal,  
9           or local government, or by the Under Secretary in  
10          cooperation with the affected State, local, or Tribal  
11          government, for the purposes of mitigating the envi-  
12          ronmental, economic, social, subsistence, and public  
13          health effects of such event.

14          “(c) EVENT OF SIGNIFICANCE POLICY.—

15                 “(1) PUBLICATION.—Not later than six months  
16                 after the date of the enactment of this section, the  
17                 appropriate Federal officials shall publish Harmful  
18                 Algal Bloom and Hypoxia Event of Significance poli-  
19                 cies for marine and coastal harmful algal bloom or  
20                 hypoxia events, and for freshwater harmful algal  
21                 bloom or hypoxia events, respectively. Each such poli-  
22                 icy shall include the following:

23                         “(A) Evaluation criteria and considerations  
24                         to inform the determination of a harmful algal

1 bloom or hypoxia event of significance under  
2 subsection (b)(3).

3 “(B) The type of supplementary informa-  
4 tion that an affected State or other eligible re-  
5 quester described in subsection (b)(1) may pro-  
6 vide to accompany a harmful algal bloom or hy-  
7 poxia event of significance request.

8 “(C) Process and criteria for prioritizing  
9 and evaluating multiple requests for a harmful  
10 algal bloom or hypoxia event of significance de-  
11 termination.

12 “(2) OPPORTUNITY FOR COMMENT.—Not later  
13 than 120 days before publishing each final policy  
14 under paragraph (1), the appropriate Federal offi-  
15 cials shall publish a draft of each such proposed pol-  
16 icy in the Federal Register for a public comment pe-  
17 riod of not less than 60 days.

18 “(d) LIMITATIONS.—

19 “(1) FEDERAL SHARE.—Except as provided in  
20 paragraph (2), the Federal share of the cost of any  
21 activity carried out under this subsection may not  
22 exceed 75 percent of the total cost of such activity.

23 “(2) WAIVER.—The appropriate Federal official  
24 may waive the non-Federal share requirements of

1 this subsection, if the appropriate Federal official  
2 determines that—

3 “(A) no reasonable means are available  
4 through which the recipient of the Federal  
5 share can meet the non-Federal share require-  
6 ment;

7 “(B) the probable benefit of 100 percent  
8 Federal financing outweighs the public interest  
9 in imposition of the non-Federal share; and

10 “(C) assistance is directed to support the  
11 assessment or mitigation of a harmful algal  
12 bloom or hypoxia event of significance affecting  
13 an Indian Tribe or subsistence use.

14 “(3) FISHERY FAILURES.—

15 “(A) IN GENERAL.—Any analysis of a  
16 commercial fishery failure due to a fishery re-  
17 source disaster caused by a harmful algal bloom  
18 or hypoxia event of significance shall be con-  
19 ducted pursuant to an appropriate request in  
20 accordance with the Magnusons-Stevens Fish-  
21 ery Conservation and Management Act (16  
22 U.S.C. 1801 et seq.).

23 “(B) FISHERY RESOURCE DISASTER RE-  
24 LIEF.—No funds available under this section  
25 may be used as part of response relief for a de-

1           clared fishery resource disaster caused by a  
2           harmful algal bloom or hypoxia event, pursuant  
3           to the Magnuson-Stevens Fishery Conservation  
4           and Management Act (16 U.S.C. 1801 et  
5           seq.).”.

6           (2) CLERICAL AMENDMENTS.—The table of  
7           contents in section 2 of the Coast Guard Authoriza-  
8           tion Act of 1998 is amended by inserting after the  
9           item relating to section 610 the following new item:

“Sec. 611. National level incubator program.

“Sec. 612. Harmful algal bloom or hypoxia event of significance.”.

