

title on the ability of eligible entities to finance water infrastructure projects under this chapter;

(B) a recommendation as to whether the objectives of this chapter would be best served—

(i) by continuing the authority of the Secretary or the Administrator, as applicable, to provide assistance under this chapter;

(ii) by establishing a Government corporation or Government-sponsored enterprise to provide assistance in accordance with this chapter; or

(iii) by terminating the authority of the Secretary and the Administrator under this chapter and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation; and

(C) any proposed changes to improve the efficiency and effectiveness of this chapter in providing financing for water infrastructure projects, taking into consideration the recommendations made under subparagraphs (A) and (B).

(Pub. L. 113–121, title V, § 5034, June 10, 2014, 128 Stat. 1343.)

“SECRETARY” DEFINED

Secretary means the Secretary of the Army, see section 2 of Pub. L. 113–121, set out as a note under section 2201 of this title.

**§ 3914. Requirements**

**(a) In general**

Except as provided in subsection (c), none of the amounts made available under this chapter may be used for the construction, alteration, maintenance, or repair of a project eligible for assistance under this chapter unless all of the iron and steel products used in the project are produced in the United States.

**(b) Definition of iron and steel products**

In this section, the term “iron and steel products” means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

**(c) Application**

Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—

(1) applying subsection (a) would be inconsistent with the public interest;

(2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.

**(d) Waiver**

If the Administrator receives a request for a waiver under this section, the Administrator

shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request, and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency.

**(e) International agreements**

This section shall be applied in a manner consistent with United States obligations under international agreements.

(Pub. L. 113–121, title V, § 5035, June 10, 2014, 128 Stat. 1344.)

**CHAPTER 53—HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL**

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**§ 4001. Assessments**

**(a) Establishment of Inter-Agency Task Force**

The President, through the Committee on Environment and Natural Resources of the National Science and Technology Council, shall establish an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia. The Task Force shall consist of a representative from—

- (1) the Department of Commerce (who shall serve as Chairman of the Task Force);
- (2) the Environmental Protection Agency;
- (3) the Department of Agriculture;
- (4) the Department of the Interior;
- (5) the Department of the Navy;
- (6) the Department of Health and Human Services;
- (7) the National Science Foundation;
- (8) the National Aeronautics and Space Administration;
- (9) the Food and Drug Administration;
- (10) the Office of Science and Technology Policy;
- (11) the Council on Environmental Quality;
- (12) the Centers for Disease Control and Prevention; and
- (13) other Federal agencies as the President considers appropriate.

**(b) Assessment of harmful algal blooms**

(1) Not later than 12 months after November 13, 1998, the Task Force, in cooperation with the coastal States, Indian tribes, and local governments, industry (including agricultural organizations), academic institutions, and non-governmental organizations with expertise in coastal zone management, shall complete and submit to

the Congress an assessment which examines the ecological and economic consequences of harmful algal blooms, alternatives for reducing, mitigating, and controlling harmful algal blooms, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to harmful algal blooms; and

(B) provide for Federal cooperation and coordination with and assistance to the coastal States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of harmful algal blooms and their environmental and public health impacts.

**(c) Assessment of hypoxia**

(1) Not later than 12 months after November 13, 1998, the Task Force, in cooperation with the States, Indian tribes, local governments, industry, agricultural, academic institutions, and non-governmental organizations with expertise in watershed and coastal zone management, shall complete and submit to the Congress an assessment which examines the ecological and economic consequences of hypoxia in United States coastal waters, alternatives for reducing, mitigating, and controlling hypoxia, and the social and economic costs and benefits of such alternatives.

(2) The assessment shall—

(A) establish needs, priorities, and guidelines for a peer-reviewed, inter-agency research program on the causes, characteristics, and impacts of hypoxia;

(B) identify alternatives for preventing unnecessary duplication of effort among Federal agencies and departments with respect to hypoxia; and

(C) provide for Federal cooperation and coordination with and assistance to the States, Indian tribes, and local governments in the prevention, reduction, management, mitigation, and control of hypoxia and its environmental impacts.

**(d) Report to Congress on harmful algal bloom impacts**

**(1) Development**

Not later than 12 months after December 10, 2004, the President, in consultation with the chief executive officers of the States, shall develop and submit to the Congress a report that describes and evaluates the effectiveness of measures described in paragraph (2) that may be utilized to protect environmental and public health from impacts of harmful algal blooms. In developing the report, the President shall consult with the Task Force, the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management, and also consider the scientific assessments developed under this Act.

**(2) Requirements**

The report shall—

(A) review techniques for prediction of the onset, course, and impacts of harmful algal blooms including evaluation of their accuracy and utility in protecting environmental and public health and provisions for their development;

(B) identify innovative research and development methods for the prevention, control, and mitigation of harmful algal blooms and provisions for their development; and

(C) include incentive-based partnership approaches regarding subparagraphs (A) and (B) where practicable.

**(3) Publication and opportunity for comment**

At least 90 days before submitting the report to the Congress, the President shall cause a summary of the proposed plan to be published in the Federal Register for a public comment period of not less than 60 days.

**(4) Federal assistance**

The Secretary of Commerce, in coordination with the Task Force and to the extent of funds available, shall provide for Federal cooperation with and assistance to the coastal States, Indian tribes, and local governments regarding the measures described in paragraph (2), as requested.

**(e) Local and regional scientific assessments**

**(1) In general**

The Secretary of Commerce, in coordination with the Task Force and appropriate State, Indian tribe, and local governments, to the extent of funds available, shall provide for local and regional scientific assessments of hypoxia and harmful algal blooms, as requested by States, Indian tribes, and local governments, or for affected areas as identified by the Secretary. If the Secretary receives multiple requests, the Secretary shall ensure, to the extent practicable, that assessments under this subsection cover geographically and ecologically diverse locations with significant ecological and economic impacts from hypoxia or harmful algal blooms. The Secretary shall establish a procedure for reviewing requests for local and regional assessments. The Secretary shall ensure, through consultation with Sea Grant Programs, that the findings of the assessments are communicated to the appropriate State, Indian tribe, and local governments, and to the general public.

**(2) Purpose**

Local and regional assessments shall examine—

(A) the causes and ecological consequences, and the economic cost, of hypoxia or harmful algal blooms in that area;

(B) potential methods to prevent, control, and mitigate hypoxia or harmful algal blooms in that area and the potential ecological and economic costs and benefits of such methods; and

(C) other topics the Task Force considers appropriate.

**(f) Scientific assessment of freshwater harmful algal blooms**

(1) Not later than 24 months after December 10, 2004, the Task Force shall complete and sub-

mit to Congress a scientific assessment of current knowledge about harmful algal blooms in freshwater, such as the Great Lakes and upper reaches of estuaries, including a research plan for coordinating Federal efforts to better understand freshwater harmful algal blooms.

(2) The freshwater harmful algal bloom scientific assessment shall—

(A) examine the causes and ecological consequences, and the economic costs, of harmful algal blooms with significant effects on freshwater, including estimations of the frequency and occurrence of significant events;

(B) establish priorities and guidelines for a competitive, peer-reviewed, merit-based inter-agency research program, as part of the Ecology and Oceanography of Harmful Algal Blooms (ECOHAB) project, to better understand the causes, characteristics, and impacts of harmful algal blooms in freshwater locations; and

(C) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms in freshwater locations.

**(g) Scientific assessments of hypoxia**

(1) Not less than once every 5 years the Task Force shall complete and submit to the Congress a scientific assessment of hypoxia in United States coastal waters including the Great Lakes. The first such assessment shall be completed not less than 24 months after December 10, 2004.

(2) The assessments under this subsection shall—

(A) examine the causes and ecological consequences, and the economic costs, of hypoxia;

(B) describe the potential ecological and economic costs and benefits of possible policy and management actions for preventing, controlling, and mitigating hypoxia;

(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of hypoxia, including recommendations of how to eliminate significant gaps in hypoxia modeling and monitoring data; and

(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on hypoxia.

**(h) Scientific assessments of harmful algal blooms**

(1) Not less than once every 5 years the Task Force shall complete and submit to Congress a scientific assessment of harmful algal blooms in United States coastal waters. The first such assessment shall be completed not later than 24 months after December 10, 2004, and shall consider only marine harmful algal blooms. All subsequent assessments shall examine both marine and freshwater harmful algal blooms, including those in the Great Lakes and upper reaches of estuaries.

(2) The assessments under this subsection shall—

(A) examine the causes and ecological consequences, and economic costs, of harmful algal blooms;

(B) describe the potential ecological and economic costs and benefits of possible actions for preventing, controlling, and mitigating harmful algal blooms;

(C) evaluate progress made by, and the needs of, Federal research programs on the causes, characteristics, and impacts of harmful algal blooms; and

(D) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to research on harmful algal blooms.

**(i) National scientific research, development, demonstration, and technology transfer plan on reducing impacts from harmful algal blooms**

(1) Not later than 12 months after December 10, 2004, the Task Force shall develop and submit to Congress a plan providing for a comprehensive and coordinated national research program to develop and demonstrate prevention, control, and mitigation methods to reduce the impacts of harmful algal blooms on coastal ecosystems (including the Great Lakes), public health, and the economy.

(2) The plan shall—

(A) establish priorities and guidelines for a competitive, peer reviewed, merit based inter-agency research, development, demonstration, and technology transfer program on methods for the prevention, control, and mitigation of harmful algal blooms;

(B) identify ways to improve coordination and to prevent unnecessary duplication of effort among Federal agencies and departments with respect to the actions described in paragraph (1); and

(C) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian Pacific Americans, and other underrepresented populations.

(3) The Secretary of Commerce, in conjunction with other appropriate Federal agencies, shall establish a research, development, demonstration, and technology transfer program that meets the priorities and guidelines established under paragraph (2)(A). The Secretary shall ensure, through consultation with Sea Grant Programs, that the results and findings of the program are communicated to State, Indian tribe, and local governments, and to the general public.

**(j) Report**

Not later than 2 years after the date the Action Strategy is submitted under section 4003 of this title, the Under Secretary shall submit a report to Congress that describes—

(1) the proceedings of the annual Task Force meetings;

(2) the activities carried out under the Program, including the regional and subregional parts of the Action Strategy;

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

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

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

(Pub. L. 105-383, title VI, § 603, Nov. 13, 1998, 112 Stat. 3448; Pub. L. 108-456, title I, §§ 102-104, Dec. 10, 2004, 118 Stat. 3630, 3631; Pub. L. 113-124, §§ 3, 6, 10(b), June 30, 2014, 128 Stat. 1379, 1383, 1386.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (d)(1), probably means title I of Pub. L. 108-456, Dec. 10, 2004, 118 Stat. 3630, known as the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, which added subsec. (d) and also added subsecs. (e) to (i) of this section, which relate to scientific assessments.

#### CODIFICATION

Section was formerly set out in a note under section 1451 of Title 16, Conservation.

#### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-124, § 10(b), struck out “(hereinafter referred to as the ‘Task Force’)” after “Hypoxia” in introductory provisions.

Pub. L. 113-124, § 3(1), substituted “a representative from” for “the following representatives from” in introductory provisions.

Subsec. (a)(12). Pub. L. 113-124, § 3(2), (4), added par. (12). Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 113-124, § 3(3), (5), redesignated par. (12) as (13) and struck out “such” before “other”.

Subsec. (j). Pub. L. 113-124, § 6, added subsec. (j).

2004—Subsec. (d). Pub. L. 108-456, § 103, added subsec. (d).

Subsec. (e). Pub. L. 108-456, § 104, added subsec. (e). Former subsec. (e) struck out.

Pub. L. 108-456, § 102, struck out subsec. (e) which provided that the President could disestablish the Task Force after submission of the plan in section 4004 of this title.

Subsecs. (f) to (i). Pub. L. 108-456, § 104, added subsecs. (f) to (i).

#### SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113-124, § 1, June 30, 2014, 128 Stat. 1379, provided that: “This Act [enacting sections 4002, 4003, and 4007 to 4009 of this title and amending this section and sections 4004 and 4005 of this title] may be cited as the ‘Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2014.’”

#### SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108-456, title I, § 101, Dec. 10, 2004, 118 Stat. 3630, provided that: “This title [enacting section 4001a of this title and amending this section and section 4005 of this title] may be cited as the ‘Harmful Algal Bloom and Hypoxia Amendments Act of 2004.’”

#### SHORT TITLE

Pub. L. 105-383, title VI, § 601, Nov. 13, 1998, 112 Stat. 3447, provided that: “This title [enacting this chapter] may be cited as the ‘Harmful Algal Bloom and Hypoxia Research and Control Act of 1998.’”

#### FINDINGS

Pub. L. 105-383, title VI, § 602, Nov. 13, 1998, 112 Stat. 3447, provided that: “The Congress finds that—

“(1) the recent outbreak of the harmful microbe *Pfiesteria piscicida* in the coastal waters of the United States is one example of potentially harmful algal blooms composed of naturally occurring species that reproduce explosively and that are increasing in frequency and intensity in the Nation’s coastal waters;

“(2) other recent occurrences of harmful algal blooms include red tides in the Gulf of Mexico and the Southeast; brown tides in New York and Texas; ciguatera fish poisoning in Hawaii, Florida, Puerto

Rico, and the United States Virgin Islands; and shellfish poisonings in the Gulf of Maine, the Pacific Northwest, and the Gulf of Alaska;

“(3) in certain cases, harmful algal blooms have resulted in fish kills, the deaths of numerous endangered West Indian manatees, beach and shellfish bed closures, threats to public health and safety, and concern among the public about the safety of seafood;

“(4) according to some scientists, the factors causing or contributing to harmful algal blooms may include excessive nutrients in coastal waters, other forms of pollution, the transfer of harmful species through ship ballast water, and ocean currents;

“(5) harmful algal blooms may have been responsible for an estimated \$1,000,000,000 in economic losses during the past decade;

“(6) harmful algal blooms and blooms of non-toxic algal species may lead to other damaging marine conditions such as hypoxia (reduced oxygen concentrations), which are harmful or fatal to fish, shellfish, and benthic organisms;

“(7) according to the National Oceanic and Atmospheric Administration in the Department of Commerce, 53 percent of United States estuaries experience hypoxia for at least part of the year and a 7,000 square mile area in the Gulf of Mexico off Louisiana and Texas suffers from hypoxia;

“(8) according to some scientists, a factor believed to cause hypoxia is excessive nutrient loading into coastal waters;

“(9) there is a need to identify more workable and effective actions to reduce nutrient loadings to coastal waters;

“(10) the National Oceanic and Atmospheric Administration, through its ongoing research, education, grant, and coastal resource management programs, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control harmful algal blooms and hypoxia;

“(11) funding for the research and related programs of the National Oceanic and Atmospheric Administration will aid in improving the Nation’s understanding and capabilities for addressing the human and environmental costs associated with harmful algal blooms and hypoxia; and

“(12) other Federal agencies such as the Environmental Protection Agency, the Department of Agriculture, and the National Science Foundation, along with the States, Indian tribes, and local governments, conduct important work related to the prevention, reduction, and control of harmful algal blooms and hypoxia.”

#### § 4001a. Consultation required

In developing the assessments, reports, and plans under the amendments made by this title,<sup>1</sup> the Task Force shall consult with the coastal States, Indian tribes, local governments, appropriate industries (including fisheries, agriculture, and fertilizer), academic institutions, and nongovernmental organizations with expertise in coastal zone science and management.

(Pub. L. 108-456, title I, § 102 (part), Dec. 10, 2004, 118 Stat. 3630.)

#### REFERENCES IN TEXT

This title, referred to in text, means title I of Pub. L. 108-456, Dec. 10, 2004, 118 Stat. 3630, known as the Harmful Algal Bloom and Hypoxia Amendments Act of 2004, which enacted this section, amended sections 4001 and 4005 of this title, and enacted provisions set out as a note under section 4001 of this title. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 4001 of this title and Tables.

<sup>1</sup> See References in Text note below.