

108TH CONGRESS  
2D SESSION

# S. 3014

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

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 19, 2004

Ms. SNOWE (for herself, Mr. BREAUX, Mr. VOINOVICH, Mr. LEVIN, and Mr. DEWINE) introduced the following bill; which was read twice, considered, read the third time, and passed

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## A BILL

To reauthorize the Harmful Algal Bloom 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 **TITLE I—HARMFUL ALGAL**  
4 **BLOOM AND HYPOXIA**  
5 **AMENDMENTS ACT OF 2004**

6 **SEC. 101. SHORT TITLE.**

7 This title may be cited as the “Harmful Algal Bloom  
8 and Hypoxia Amendments Act of 2004”.

1 **SEC. 102. RETENTION OF TASK FORCE.**

2 Section 603 of the Harmful Algal Bloom and Hy-  
3 poxia Research and Control Act of 1998 (16 U.S.C. 1451  
4 nt) is amended by striking subsection (e). In developing  
5 the assessments, reports, and plans under the amend-  
6 ments made by this title, the Task Force shall consult with  
7 the coastal States, Indian tribes, local governments, ap-  
8 propriate industries (including fisheries, agriculture, and  
9 fertilizer), academic institutions, and nongovernmental or-  
10 ganizations with expertise in coastal zone science and  
11 management.

12 **SEC. 103. PREDICTION AND RESPONSE REPORT.**

13 Section 603 of such Act, as amended by section 102,  
14 is further amended by adding at the end the following:

15 “(d) REPORT TO CONGRESS ON HARMFUL ALGAL  
16 BLOOM IMPACTS.—

17 “(1) DEVELOPMENT.—Not later than 12  
18 months after the date of enactment of the Harmful  
19 Algal Bloom and Hypoxia Amendments Act of 2004,  
20 the President, in consultation with the chief execu-  
21 tive officers of the States, shall develop and submit  
22 to the Congress a report that describes and evalu-  
23 ates the effectiveness of measures described in para-  
24 graph (2) that may be utilized to protect environ-  
25 mental and public health from impacts of harmful  
26 algal blooms. In developing the report, the President

1 shall consult with the Task Force, the coastal  
2 States, Indian tribes, local governments, appropriate  
3 industries (including fisheries, agriculture, and fer-  
4 tilizer), academic institutions, and nongovernmental  
5 organizations with expertise in coastal zone science  
6 and management, and also consider the scientific as-  
7 sessments developed under this Act.

8 “(2) REQUIREMENTS.—The report shall—

9 “(A) review techniques for prediction of  
10 the onset, course, and impacts of harmful algal  
11 blooms including evaluation of their accuracy  
12 and utility in protecting environmental and  
13 public health and provisions for their develop-  
14 ment;

15 “(B) identify innovative research and de-  
16 velopment methods for the prevention, control,  
17 and mitigation of harmful algal blooms and pro-  
18 visions for their development; and

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

22 “(3) PUBLICATION AND OPPORTUNITY FOR  
23 COMMENT.—At least 90 days before submitting the  
24 report to the Congress, the President shall cause a  
25 summary of the proposed plan to be published in the

1 Federal Register for a public comment period of not  
2 less than 60 days.

3 “(4) FEDERAL ASSISTANCE.—The Secretary of  
4 Commerce, in coordination with the Task Force and  
5 to the extent of funds available, shall provide for  
6 Federal cooperation with and assistance to the  
7 coastal States, Indian tribes, and local governments  
8 regarding the measures described in paragraph (2),  
9 as requested.”.

10 **SEC. 104. LOCAL AND REGIONAL SCIENTIFIC ASSESS-**  
11 **MENTS.**

12 Section 603 of such Act, as amended by section 103,  
13 is further amended by adding at the end the following:

14 “(e) LOCAL AND REGIONAL SCIENTIFIC ASSESS-

15 MENTS.—

16 “(1) IN GENERAL.—The Secretary of Com-  
17 merce, in coordination with the Task Force and ap-  
18 propriate State, Indian tribe, and local governments,  
19 to the extent of funds available, shall provide for  
20 local and regional scientific assessments of hypoxia  
21 and harmful algal blooms, as requested by States,  
22 Indian tribes, and local governments, or for affected  
23 areas as identified by the Secretary. If the Secretary  
24 receives multiple requests, the Secretary shall en-  
25 sure, to the extent practicable, that assessments

1 under this subsection cover geographically and eco-  
2 logically diverse locations with significant ecological  
3 and economic impacts from hypoxia or harmful algal  
4 blooms. The Secretary shall establish a procedure  
5 for reviewing requests for local and regional assess-  
6 ments. The Secretary shall ensure, through consulta-  
7 tion with Sea Grant Programs, that the findings of  
8 the assessments are communicated to the appro-  
9 priate State, Indian tribe, and local governments,  
10 and to the general public.

11 “(2) PURPOSE.—Local and regional assess-  
12 ments shall examine—

13 “(A) the causes and ecological con-  
14 sequences, and the economic cost, of hypoxia or  
15 harmful algal blooms in that area;

16 “(B) potential methods to prevent, control,  
17 and mitigate hypoxia or harmful algal blooms in  
18 that area and the potential ecological and eco-  
19 nomic costs and benefits of such methods; and

20 “(C) other topics the Task Force considers  
21 appropriate.

22 “(f) SCIENTIFIC ASSESSMENT OF FRESHWATER  
23 HARMFUL ALGAL BLOOMS.—(1) Not later than 24  
24 months after the date of enactment of the Harmful Algal  
25 Bloom and Hypoxia Amendments Act of 2004 the Task

1 Force shall complete and submit to Congress a scientific  
2 assessment of current knowledge about harmful algal  
3 blooms in freshwater, such as the Great Lakes and upper  
4 reaches of estuaries, including a research plan for coordi-  
5 nating Federal efforts to better understand freshwater  
6 harmful algal blooms.

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

9 “(A) examine the causes and ecological con-  
10 sequences, and the economic costs, of harmful algal  
11 blooms with significant effects on freshwater, includ-  
12 ing estimations of the frequency and occurrence of  
13 significant events;

14 “(B) establish priorities and guidelines for a  
15 competitive, peer-reviewed, merit-based interagency  
16 research program, as part of the Ecology and  
17 Oceanography of Harmful Algal Blooms (ECOHAB)  
18 project, to better understand the causes, characteris-  
19 tics, and impacts of harmful algal blooms in fresh-  
20 water locations; and

21 “(C) identify ways to improve coordination and  
22 to prevent unnecessary duplication of effort among  
23 Federal agencies and departments with respect to  
24 research on harmful algal blooms in freshwater loca-  
25 tions.

1       “(g) SCIENTIFIC ASSESSMENTS OF HYPOXIA.—(1)  
2 Not less than once every 5 years the Task Force shall  
3 complete and submit to the Congress a scientific assess-  
4 ment of hypoxia in United States coastal waters including  
5 the Great Lakes. The first such assessment shall be com-  
6 pleted not less than 24 months after the date of enactment  
7 of the Harmful Algal Bloom and Hypoxia Amendments  
8 Act of 2004.

9       “(2) The assessments under this subsection shall—

10           “(A) examine the causes and ecological con-  
11 sequences, and the economic costs, of hypoxia;

12           “(B) describe the potential ecological and eco-  
13 nomic costs and benefits of possible policy and man-  
14 agement actions for preventing, controlling, and  
15 mitigating hypoxia;

16           “(C) evaluate progress made by, and the needs  
17 of, Federal research programs on the causes, charac-  
18 teristics, and impacts of hypoxia, including rec-  
19 ommendations of how to eliminate significant gaps  
20 in hypoxia modeling and monitoring data; and

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

1       “(h) SCIENTIFIC ASSESSMENTS OF HARMFUL ALGAL  
2 BLOOMS.—(1) Not less than once every 5 years the Task  
3 Force shall complete and submit to Congress a scientific  
4 assessment of harmful algal blooms in United States  
5 coastal waters. The first such assessment shall be com-  
6 pleted not later than 24 months after the date of enact-  
7 ment of the Harmful Algal Bloom and Hypoxia Amend-  
8 ments Act of 2004 and shall consider only marine harmful  
9 algal blooms. All subsequent assessments shall examine  
10 both marine and freshwater harmful algal blooms, includ-  
11 ing those in the Great Lakes and upper reaches of estu-  
12 aries.

13       “(2) The assessments under this subsection shall—

14               “(A) examine the causes and ecological con-  
15 sequences, and economic costs, of harmful algal  
16 blooms;

17               “(B) describe the potential ecological and eco-  
18 nomic costs and benefits of possible actions for pre-  
19 venting, controlling, and mitigating harmful algal  
20 blooms;

21               “(C) evaluate progress made by, and the needs  
22 of, Federal research programs on the causes, charac-  
23 teristics, and impacts of harmful algal blooms; and

24               “(D) identify ways to improve coordination and  
25 to prevent unnecessary duplication of effort among



1 Federal agencies and departments with respect to  
2 research on harmful algal blooms.

3 “(i) NATIONAL SCIENTIFIC RESEARCH, DEVELOP-  
4 MENT, DEMONSTRATION, AND TECHNOLOGY TRANSFER  
5 PLAN ON REDUCING IMPACTS FROM HARMFUL ALGAL  
6 BLOOMS.—(1) Not later than 12 months after the date  
7 of enactment of the Harmful Algal Bloom and Hypoxia  
8 Amendments Act of 2004, the Task Force shall develop  
9 and submit to Congress a plan providing for a comprehen-  
10 sive and coordinated national research program to develop  
11 and demonstrate prevention, control, and mitigation meth-  
12 ods to reduce the impacts of harmful algal blooms on  
13 coastal ecosystems (including the Great Lakes), public  
14 health, and the economy.

15 “(2) The plan shall—

16 “(A) establish priorities and guidelines for a  
17 competitive, peer reviewed, merit based interagency  
18 research, development, demonstration, and tech-  
19 nology transfer program on methods for the preven-  
20 tion, control, and mitigation of harmful algal  
21 blooms;

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

1           “(C) include to the maximum extent practicable  
2           diverse institutions, including Historically Black Col-  
3           leges and Universities and those serving large pro-  
4           portions of Hispanics, Native Americans, Asian Pa-  
5           cific Americans, and other underrepresented popu-  
6           lations.

7           “(3) The Secretary of Commerce, in conjunction with  
8           other appropriate Federal agencies, shall establish a re-  
9           search, development, demonstration, and technology trans-  
10          fer program that meets the priorities and guidelines estab-  
11          lished under paragraph (2)(A). The Secretary shall en-  
12          sure, through consultation with Sea Grant Programs, that  
13          the results and findings of the program are communicated  
14          to State, Indian tribe, and local governments, and to the  
15          general public.”.

16   **SEC. 105. AUTHORIZATION OF APPROPRIATIONS.**

17          Section 605 of such Act is amended—

18               (1) by striking “and” after “2000,” in the first  
19               sentence and in the paragraphs (1), (2), (3), and  
20               (5);

21               (2) by inserting “\$23,500,000 for fiscal year  
22               2005, \$24,500,000 for fiscal year 2006,  
23               \$25,000,000 for fiscal year 2007, and \$25,500,000  
24               for fiscal year 2008,” after “2001,” in the first sen-  
25               tence;

1           (3) by inserting “, and \$2,500,000 for each of  
2           fiscal years 2005 through 2008” after “2001” in  
3           paragraph (1);

4           (4) by inserting “, and \$6,500,000, of which  
5           \$1,000,000 shall be used for the research program  
6           described in section 603(f)(2)(B), for each of fiscal  
7           years 2005 through 2008” after “2001” in para-  
8           graph (2);

9           (5) by striking “2001” in paragraph (3) and in-  
10          serting “2001, and \$3,000,000 for each of fiscal  
11          years 2005 through 2008”;

12          (6) by striking “blooms;” in paragraph (3) and  
13          inserting “blooms and to carry out section 603(d);”;

14          (7) by striking “and 2001” in paragraph (4)  
15          and inserting “2001, and \$6,000,000 for each of fis-  
16          cal years 2005 through 2008”;

17          (8) by striking “and” after the semicolon in  
18          paragraph (4);

19          (9) by striking “2001” in paragraph (5) and in-  
20          serting “2001, \$4,000,000 for fiscal year 2005,  
21          \$5,000,000 for fiscal year 2006, \$5,500,000 for fis-  
22          cal year 2007, and \$6,000,000 for fiscal year 2008”;

23          (10) by striking “Administration.” in para-  
24          graph (5) and inserting “Administration; and”;

25          (11) by adding at the end the following:

1           “(6) \$1,500,000 for each of fiscal years 2005  
2 through 2008 to carry out section 603(e).”.

3           **TITLE II—MISCELLANEOUS**

4           **SEC. 201. AVAILABILITY OF NOAA REAL PROPERTY ON VIR-**  
5                                   **GINIA KEY, FLORIDA.**

6           (a) IN GENERAL.—The Secretary of Commerce may  
7 make available to the University of Miami real property  
8 under the administrative jurisdiction of the National Oce-  
9 anic and Atmospheric Administration on Virginia Key,  
10 Florida, for development by the University of a Marine  
11 Life Science Center.

12          (b) MANNER OF AVAILABILITY.—The Secretary may  
13 make property available under this section by easement,  
14 lease, license, or long-term agreement with the University.

15          (c) AUTHORIZED USES BY UNIVERSITY.—

16           (1) IN GENERAL.—Property made available  
17 under this section may be used by the University  
18 (subject to paragraph (2)) to develop and operate fa-  
19 cilities for multidisciplinary environmental and fish-  
20 eries research, assessment, management, and edu-  
21 cational activities.

22           (2) AGREEMENT.—Property made available  
23 under this section may not be used by the University  
24 (including any affiliate of the University) except in

1 accordance with an agreement with the Secretary  
2 that—

3 (A) specifies—

4 (i) the conditions for non-Federal use  
5 of the property; and

6 (ii) the retained Federal interests in  
7 the property, including interests in access  
8 to and egress from the property by Federal  
9 personnel and preservation of existing  
10 rights-of-way;

11 (B) establishes conditions for joint occu-  
12 pancy of buildings and other facilities on the  
13 property by the University and Federal agen-  
14 cies; and

15 (C) includes provisions that ensure—

16 (i) that there is no diminishment of  
17 existing National Oceanic and Atmospheric  
18 Administration programs and services at  
19 Virginia Key; and

20 (ii) the availability of the property for  
21 planning, development, and construction of  
22 future Federal buildings and facilities.

23 (3) TERMINATION OF AVAILABILITY.—The  
24 availability of property under this section shall ter-

1       minate immediately upon use of the property by the  
2       University—

3               (A) for any purpose other than as de-  
4               scribed in paragraph (1); or

5               (B) in violation of the agreement under  
6               paragraph (2).

7       (d) **USE OF FACILITIES BY SECRETARY.**—The Sec-  
8       retary may—

9               (1) subject to the availability of funding, enter  
10              into an agreement to occupy facilities constructed by  
11              the University on property made available under this  
12              section; and

13              (2) participate with the University in collabo-  
14              rative research at, or administered through, such fa-  
15              cilities.

16       (e) **NO CONVEYANCE OF TITLE.**—This section shall  
17       not be construed to convey or authorize conveyance of any  
18       interest of the United States in title to property made  
19       available under this section.

20       **SEC. 202. CONVEYANCE OF NOAA VESSEL WHITING.**

21       (a) **IN GENERAL.**—The Secretary of Commerce shall  
22       convey to the Government of Mexico, without consider-  
23       ation, all right, title, and interest of the United States in  
24       and to the National Oceanic and Atmospheric Administra-  
25       tion vessel WHITING—

1           (1) for use as a hydrographic survey platform  
2           in support of activities of the United States-Mexico  
3           Charting Advisors Committee; and

4           (2) to enhance coordination and cooperation be-  
5           tween the United States and Mexico regarding hy-  
6           drographic surveying and nautical charting activities  
7           in the border waters of both countries in the Gulf  
8           of Mexico and in the Pacific Ocean.

9           (b) OPERATION AND MAINTENANCE.—The Govern-  
10          ment of the United States shall not be responsible or liable  
11          for any remediation, maintenance, or operation of a vessel  
12          conveyed under this section after the date of the delivery  
13          of the vessel to the Government of Mexico.

14          (c) DEADLINE.—The Secretary shall seek to complete  
15          the conveyance by as soon as practicable after the date  
16          of the enactment of this Act.

17          (d) DELIVERY OF VESSEL.—The Secretary shall de-  
18          liver the vessel WHITING pursuant to this section at the  
19          vessel's homeport location of Norfolk, Virginia, at no addi-  
20          tional cost to the United States.

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