

Public Law 109–449
109th Congress

An Act

To establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes.

Dec. 22, 2006

[S. 362]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marine Debris Research, Prevention, and Reduction Act”.

Marine Debris
Research,
Prevention, and
Reduction Act.
33 USC 1951
note.
33 USC 1951.

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety;
- (2) to reactivate the Interagency Marine Debris Coordinating Committee; and
- (3) to develop a Federal marine debris information clearinghouse.

SEC. 3. NOAA MARINE DEBRIS PREVENTION AND REMOVAL PROGRAM.

33 USC 1952.

(a) **ESTABLISHMENT OF PROGRAM.**—There is established, within the National Oceanic and Atmospheric Administration, a Marine Debris Prevention and Removal Program to reduce and prevent the occurrence and adverse impacts of marine debris on the marine environment and navigation safety.

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

- (1) **MAPPING, IDENTIFICATION, IMPACT ASSESSMENT, REMOVAL, AND PREVENTION.**—The Administrator shall, in consultation with relevant Federal agencies, undertake marine debris mapping, identification, impact assessment, prevention, and removal efforts, with a focus on marine debris posing a threat to living marine resources and navigation safety, including—

(A) the establishment of a process, building on existing information sources maintained by Federal agencies such as the Environmental Protection Agency and the Coast Guard, for cataloguing and maintaining an inventory of marine debris and its impacts found in the navigable waters of the United States and the United States exclusive economic zone, including location, material, size, age, and

origin, and impacts on habitat, living marine resources, human health, and navigation safety;

(B) measures to identify the origin, location, and projected movement of marine debris within United States navigable waters, the United States exclusive economic zone, and the high seas, including the use of oceanographic, atmospheric, satellite, and remote sensing data; and

(C) development and implementation of strategies, methods, priorities, and a plan for preventing and removing marine debris from United States navigable waters and within the United States exclusive economic zone, including development of local or regional protocols for removal of derelict fishing gear and other marine debris.

(2) REDUCING AND PREVENTING LOSS OF GEAR.—The Administrator shall improve efforts to reduce 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 specific fisheries to enhance the tracking, recovery, and identification of lost and discarded gear; and

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

(3) OUTREACH.—The Administrator shall undertake outreach and education of the public and other stakeholders, such as the fishing industry, fishing gear manufacturers, and other marine-dependent industries, and the plastic and waste management industries, on sources of marine debris, threats associated with marine debris and approaches to identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety, including outreach and education activities through public-private initiatives. The Administrator shall coordinate outreach and education activities under this paragraph with any outreach programs conducted under section 2204 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1915).

(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(1).

(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) GRANT CRITERIA AND GUIDELINES.—Within 180 days after the date of the enactment of this Act, the Administrator shall promulgate necessary guidelines for implementation of the grant program, including development of criteria and priorities for grants. In developing those guidelines, the Administrator shall consult with—

(A) the Interagency Committee;

(B) regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(C) State, regional, and local governmental entities with marine debris experience;

(D) marine-dependent industries; and

(E) nongovernmental organizations involved in marine debris research, prevention, or removal activities.

(6) 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.

(7) 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.

SEC. 4. COAST GUARD PROGRAM.

(a) STRATEGY.—The Commandant of the Coast Guard, in consultation with the Interagency Committee, shall—

Deadline.

Notification.

33 USC 1953.

(1) take actions to reduce violations of and improve implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to the discard of plastics and other garbage from vessels;

(2) take actions to cost-effectively monitor and enforce compliance with MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), including through cooperation and coordination with other Federal and State enforcement programs;

(3) take actions to improve compliance with requirements under MARPOL Annex V and section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) that all United States ports and terminals maintain and monitor the adequacy of receptacles for the disposal of plastics and other garbage, including through promoting voluntary government-industry partnerships;

Plan.

(4) develop and implement a plan, in coordination with industry and recreational boaters, to improve ship-board waste management, including recordkeeping, and access to waste reception facilities for ship-board waste;

(5) take actions to improve international cooperation to reduce marine debris; and

(6) establish a voluntary reporting program for commercial vessel operators and recreational boaters to report incidents of damage to vessels and disruption of navigation caused by marine debris, and observed violations of laws and regulations relating to the disposal of plastics and other marine debris.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report evaluating the Coast Guard's progress in implementing subsection (a).

(c) EXTERNAL EVALUATION AND RECOMMENDATIONS ON ANNEX V.—

Contracts.
Deadline.
Reports.

(1) IN GENERAL.—The Commandant of the Coast Guard shall enter into an arrangement with the National Research Council under which the National Research Council shall submit, by not later than 18 months after the date of the enactment of this Act and in consultation with the Commandant and the Interagency Committee, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive report on the effectiveness of international and national measures to prevent and reduce marine debris and its impact.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an evaluation of international and domestic implementation of MARPOL Annex V and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) and recommendations of cost-effective actions to improve implementation and compliance with such measures to reduce impacts of marine debris;

(B) recommendation of additional Federal or international actions, including changes to international and

domestic law or regulations, needed to further reduce the impacts of marine debris; and

(C) evaluation of the role of floating fish aggregation devices in the generation of marine debris and existing legal mechanisms to reduce impacts of such debris, focusing on impacts in the Western Pacific and Central Pacific regions.

SEC. 5. INTERAGENCY COORDINATION.

33 USC 1954.

(a) INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—Section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) ESTABLISHMENT OF INTERAGENCY MARINE DEBRIS COORDINATING COMMITTEE.—There is established an Interagency Marine Debris Coordinating Committee to coordinate a comprehensive program of marine debris research and activities among Federal agencies, in cooperation and coordination with non-governmental organizations, industry, universities, and research institutions, States, Indian tribes, and other nations, as appropriate.”; and

(2) in subsection (c), by inserting “public, interagency” before “forum”.

(b) DEFINITION OF MARINE DEBRIS.—The Administrator and the Commandant of the Coast Guard, in consultation with the Interagency Committee established under subsection (a), shall jointly develop and promulgate through regulations a definition of the term “marine debris” for purposes of this Act.

Regulations.

(c) REPORTS.—

(1) INTERAGENCY REPORT ON MARINE DEBRIS IMPACTS AND STRATEGIES.—

(A) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Interagency Committee, through the chairperson, shall complete and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Resources of the House of Representatives a report that—

(i) identifies sources of marine debris;

(ii) the ecological and economic impact of marine debris;

(iii) alternatives for reducing, mitigating, preventing, and controlling the harmful affects of marine debris;

(iv) the social and economic costs and benefits of such alternatives; and

(v) recommendations to reduce marine debris both domestically and internationally.

(B) RECOMMENDATIONS.—The report shall provide strategies and recommendations on—

(i) establishing priority areas for action to address leading problems relating to marine debris;

(ii) developing strategies and approaches to prevent, reduce, remove, and dispose of marine debris, including through private-public partnerships;

(iii) establishing effective and coordinated education and outreach activities; and

(iv) ensuring Federal cooperation with, and assistance to, the coastal States (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), Indian tribes, and local governments in the identification, determination of sources, prevention, reduction, management, mitigation, and control of marine debris and its adverse impacts.

(2) ANNUAL PROGRESS REPORTS.—Not later than 3 years after the date of the enactment of this Act, and biennially thereafter, the Interagency Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that evaluates United States and international progress in meeting the purpose of this Act. The report shall include—

(A) the status of implementation of any recommendations and strategies of the Interagency Committee and analysis of their effectiveness;

(B) a summary of the marine debris inventory to be maintained by the National Oceanic and Atmospheric Administration;

(C) a review of the National Oceanic and Atmospheric Administration program authorized by section 3, including projects funded and accomplishments relating to reduction and prevention of marine debris;

(D) a review of Coast Guard programs and accomplishments relating to marine debris removal, including enforcement and compliance with MARPOL requirements; and

(E) estimated Federal and non-Federal funding provided for marine debris and recommendations for priority funding needs.

33 USC 1955.

SEC. 6. FEDERAL INFORMATION CLEARINGHOUSE.

The Administrator, in coordination with the Interagency Committee, shall—

(1) maintain a Federal information clearinghouse on marine debris that will be available to researchers and other interested persons to improve marine debris source identification, data sharing, and monitoring efforts through collaborative research and open sharing of data; and

(2) take the necessary steps to ensure the confidentiality of such information (especially proprietary information), for any information required by the Administrator to be submitted by the fishing industry under this section.

33 USC 1956.

SEC. 7. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

(2) INTERAGENCY COMMITTEE.—The term “Interagency Committee” means the Interagency Marine Debris Coordinating Committee established under section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 (33 U.S.C. 1914).

(3) UNITED STATES EXCLUSIVE ECONOMIC ZONE.—The term “United States exclusive economic zone” means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as “eastern special areas” in article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990.

(4) MARPOL; ANNEX V; CONVENTION.—The terms “MARPOL”, “Annex V”, and “Convention” have the meaning given those terms under section 2(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)).

(5) NAVIGABLE WATERS.—The term “navigable waters” means waters of the United States, including the territorial sea.

(6) TERRITORIAL SEA.—The term “territorial sea” means the waters of the United States referred to in Presidential Proclamation No. 5928, dated December 27, 1988.

(7) PROGRAM.—The term “Program” means the Marine Debris Prevention and Removal Program established under section 3.

(8) STATE.—The term “State” means—

(A) any State of the United States that is impacted by marine debris within its seaward or Great Lakes boundaries;

(B) the District of Columbia;

(C) American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands; and

(D) any other territory or possession of the United States, or separate sovereign in free association with the United States, that is impacted by marine debris within its seaward boundaries.

SEC. 8. RELATIONSHIP TO OUTER CONTINENTAL SHELF LANDS ACT. 33 USC 1957.

Nothing in this Act supersedes, or limits the authority of the Secretary of the Interior under, the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

SEC. 9. AUTHORIZATION OF APPROPRIATIONS. 33 USC 1958.

There are authorized to be appropriated for each fiscal year 2006 through 2010—

(1) to the Administrator for carrying out sections 3 and 6, \$10,000,000, of which no more than 10 percent may be for administrative costs; and

(2) to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the

Coast Guard in carrying out section 4, \$2,000,000, of which no more than 10 percent may be used for administrative costs.

Approved December 22, 2006.

LEGISLATIVE HISTORY—S. 362:

HOUSE REPORTS: No. 109-332, Pt. 1 (Comm. on Resources) and Pt. 2 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 109-56 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 151 (2005): July 1, considered and passed Senate.

Vol. 152 (2006): Sept. 27, considered and passed House, amended.
Dec. 8, Senate concurred in House amendment.

