

MARINE DEBRIS ACT AMENDMENTS OF 2012

—————
JULY 9, 2012.—Ordered to be printed
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Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 1171]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1171) to reauthorize and amend the Marine Debris Research, Prevention, and Reduction Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marine Debris Act Amendments of 2012”.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 et seq.), as in effect immediately before the enactment of this Act.

SEC. 3. SHORT TITLE AMENDMENT.

Section 1 (33 U.S.C. 1951 note) is amended by striking “Research, Prevention, and Reduction”.

SEC. 4. PURPOSE.

Section 2 (33 U.S.C. 1951) is amended to read as follows:

“SEC. 2. PURPOSE.

“The purpose of this Act is to address the adverse impacts of marine debris on the United States economy, the marine environment, and navigation safety through identification, determination of sources, assessment, prevention, reduction, and removal of marine debris.”.

SEC. 5. NOAA MARINE DEBRIS PROGRAM.

(a) NAME OF PROGRAM.—

(1) IN GENERAL.—Section 3 (33 U.S.C. 1952) is amended—

(A) in the section heading by striking “PREVENTION AND REMOVAL”; and

(B) in subsection (a)—

(i) by striking “Prevention and Removal Program to reduce and prevent” and inserting “Program to identify, determine sources of, assess, prevent, reduce, and remove”; and

(ii) by inserting “the economy of the United States,” after “marine debris on”; and

(iii) by inserting a comma after “environment”.

(2) CONFORMING AMENDMENT.—Paragraph (7) of section 7 (33 U.S.C. 1956) is amended by striking “Prevention and Removal”.

(b) PROGRAM COMPONENTS.—Section 3(b) (33 U.S.C. 1952(b)) is amended to read as follows:

“(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 identification, determination of sources, assessment, prevention, reduction, and removal of marine debris;

“(3) undertake 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; and

“(4) undertake outreach and education of the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identify, determine sources of, assess, prevent, reduce, and remove marine debris and its adverse impacts on the United States economy, the marine environment, and navigational safety, including outreach and education activities through public-private initiatives.”.

(c) GRANT CRITERIA AND GUIDELINES.—Section 3(c) (33 U.S.C. 1952(c)) is amended—

(1) in paragraph (1), by striking “section 2(1)” and inserting “section 2”;

(2) by repealing paragraph (5); and

(3) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6).

SEC. 6. PROGRESS REPORTS.

Section 5(c)(2) (33 U.S.C. 1954(c)(2)) is amended—

(1) by striking “ANNUAL PROGRESS REPORTS.—” and all that follows through “thereafter” and inserting “BIENNIAL PROGRESS REPORTS.—Biennially”; and

(2) by inserting “Natural” before “Resources”.

SEC. 7. CONFIDENTIALITY OF SUBMITTED INFORMATION.

Section 6(2) (33 U.S.C. 1955(2)) is amended by striking “by the fishing industry”.

SEC. 8. MARINE DEBRIS DEFINITION.

Section 7 (33 U.S.C. 1956) is amended—

(1) by redesignating paragraph (3) as paragraph (9), and moving such paragraph to appear after paragraph (8); and

(2) by inserting after paragraph (2) the following:

“(3) MARINE DEBRIS.—The term ‘marine debris’ means any persistent solid material that is manufactured or processed and directly or indirectly, and intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.”.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 9 (33 U.S.C. 1958) is amended—

(1) by striking “are” and inserting “is”;

(2) by striking “2006 through 2010” and all that follows through “(1)” and inserting “through fiscal year 2015”; and

(3) in paragraph (1), by striking “\$10,000,000” and inserting “\$4,900,000”.

PURPOSE OF THE BILL

The purpose of H.R. 1171, as ordered reported, is to reauthorize and amend the Marine Debris Research, Prevention, and Reduction Act.

BACKGROUND AND NEED FOR LEGISLATION

The term “marine debris” refers to the trash or litter that floats around oceans or washes up on beaches. Marine debris is pervasive throughout the world’s oceans causing potential adverse effects on marine organisms, ocean habitats, and human health and safety. The life span of marine debris can range from 2 weeks for some paper products to 450 years in the case of plastics.

The Marine Debris Research, Prevention, and Reduction Act (Public Law 109–449) was enacted in 2006 in response to recommendations made by the U.S. Commission on Ocean Policy in its report, *An Ocean Blueprint for the 21st Century*, released September 2004. The Commission report noted gaps in existing U.S. marine debris efforts and recommended the establishment of a program within the National Oceanic and Atmospheric Administration (NOAA) that expands on and complemented the U.S. Environmental Protection Agency’s program.

The Marine Debris Research, Prevention, and Reduction Act established programs within NOAA and the United States Coast Guard (USCG) to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigational safety, in coordination with non-federal entities.

The Act also established a Marine Debris Prevention and Removal Program within NOAA aimed at reducing and preventing the occurrence and adverse impacts of marine debris on the marine environment and navigational safety. The program components included mapping, identification, impact assessment, removal and prevention of marine debris, efforts aimed at reducing and preventing loss of fishing gear, and outreach and education programs. It authorized NOAA to provide grants to non-Federal entities involved with those activities.

Public Law 109–449 also amended the Marine Plastic Pollution Research and Control Act by establishing an Interagency Committee on Marine Debris to coordinate federal activities and cooperate with non-federal entities to create a comprehensive program directed at marine debris research and other marine debris related activities. It also directed NOAA and USCG to jointly develop and promulgate through regulations a definition of marine debris. NOAA and USCG promulgated regulations to define “marine debris” as any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes. Annual reports on marine debris impacts and prevention and reduction strategies were required. Lastly, NOAA was required to maintain a federal information clearinghouse on marine debris source identification for researchers and other interested parties to improve marine debris source identification, data sharing, and monitoring efforts through collaborative research efforts.

The Interagency Marine Debris Coordinating Committee sent Congress a report in January 2010, which outlined activities undertaken by the federal departments and agencies under Public Law 109–449 for the period of 2008–2009. According to the report, NOAA regional offices work closely with local and state agencies, other NOAA offices and federal agencies, nongovernmental organi-

zations, academia, private industry, and the interested public on marine debris issues.

Public Law 109–449 authorized appropriations of \$10 million for each of fiscal years 2006 through 2010 for NOAA to implement the Marine Debris Program and Information Clearing House. Fiscal year funding for the program ranged from \$6.31 million in 2005, to \$5.2 million in 2006 and 2007, to a low of \$4 million in 2009 to \$4.9 million in 2012. From 2005 to 2011, NOAA funded 64 projects at about \$5.6 million and leveraged over \$7.3 million in matching funds from non-federal sources. The National Fish and Wildlife Foundation’s Marine Debris Research and Technology Grants program, from 2005–2011, supported 46 projects involving fishermen, ports and marinas using \$2.7 million in NOAA funds coupled with \$2.9 million in non-federal matching funds.

H.R. 1171, as introduced, would revise provisions of the Marine Debris Research, Prevention and Reduction Act, including renaming the program as the Marine Debris Program.

The legislation would revise the Marine Debris Program to require the NOAA Administrator to: (1) investigate, identify sources of, assess, reduce, remove, and prevent the occurrence of marine debris and to address and prevent adverse impacts of such debris on the marine environment, navigation safety, and the economy; (2) address land-based sources of marine debris, develop fishing gear modifications or alternatives to conventional fishing gear posing a threat to the marine environment, and develop effective nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in its recovery; (3) undertake national and regional coordination to assist states, Indian tribes, and regional organizations to address marine debris issues that are particular to their areas; (4) develop tools and products to improve efforts to address marine debris and make them available to researchers, the marine debris community, and the general public; and (5) lead the development and implementation of a strategy to promote international action to reduce the incidence of marine debris.

The bill would require the NOAA Administrator to host a Global Marine Debris Coordination Conference in 2015 and at least every four years thereafter.

The bill would also create a new definition of marine debris. Marine debris would be defined to mean any man-made object that: (1) intentionally or unintentionally, is discarded, disposed of, or abandoned; and (2) enters the coastal or marine environment directly from a vessel, a facility, or shore or indirectly, by being carried via a river, stream, or storm drain or by other means.

During Full Committee consideration of the bill, the committee adopted an amendment in the nature of a substitute offered by Congressman John Fleming (R–LA). The amendment makes moderate changes to P.L. 109–449. Those changes include: striking outdated provisions; renaming the program to the Marine Debris Program; revising the program components to include “identifying, determining sources of, assessing, preventing, reducing, and removing marine debris”; making the annual reports biennial; expanding the confidentiality provisions to all industries that submit information; and codifying the existing NOAA and USCG marine debris defini-

tion. The amendment would authorize appropriations at the fiscal year 2012 level of \$4.9 million for each of fiscal years through 2015.

COMMITTEE ACTION

H.R. 1171 was introduced on March 17, 2011, by Congressman Sam Farr (D-CA). The bill was referred primarily 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 December 15, 2011, the Subcommittee held a hearing on the bill. On June 7, 2012, the Full Resources Committee met to consider the bill. The Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs was discharged by unanimous consent. Congressman John Fleming (R-LA) offered an amendment to the bill; the amendment was adopted by unanimous consent. The bill, as amended, was then adopted and 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:

H.R. 1171—Marine Debris Act Amendments of 2012

Summary: H.R. 1171 would reauthorize and amend the Marine Debris Research, Prevention, and Reduction Act. The bill would authorize the appropriation of \$4.9 million annually through 2015 for the National Oceanic and Atmospheric Administration (NOAA) to carry out activities to reduce the amount of marine debris (such as plastic and lost fishing gear) in oceans and coastal areas.

Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would cost \$15 million over the 2013–2017 period. Enacting H.R. 1171 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1171 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1171 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2013	2014	2015	2016	2017	2013–2017
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	5	5	5	0	0	15
Estimated Outlays	3	4	5	2	1	15

Basis of estimate: For this estimate, CBO assumes that H.R. 1171 will be enacted before the end of 2012 and that the authorized amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar NOAA activities.

H.R. 1171 would authorize the appropriation of \$4.9 million a year through 2015 for NOAA to carry out the Marine Debris Program. In 2011, NOAA spent about \$4 million to carry out activities related to the program. Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would cost about \$15 million over the 2013–2017 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: H.R. 1171 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimates: On November 21, 2011, CBO transmitted a cost estimate for S. 1119, the Trash Free Seas Act of 2011, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 2, 2011. S. 1119 would authorize the appropriation of \$12 million a year over the 2012–2016 period for NOAA and the U.S. Coast Guard to carry out activities related to the Marine Debris Program. H.R. 1171 would authorize the appropriation of \$4.9 million a year through 2015 for NOAA to carry out activities related to that program. The CBO cost estimates for the two bills reflect those differences.

On June 19, 2012, CBO transmitted a cost estimate for H.R. 1171 as ordered reported by the House Committee on Transportation and Infrastructure on June 7, 2012. The two versions of H.R. 1171 are similar and the CBO cost estimates are the same.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate 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, credit authority, or an increase or decrease in revenues or tax expenditures. Assuming appropriation of the authorized amounts, CBO estimates

that implementing the legislation would cost \$15 million over the 2013–2017 period.

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, as ordered reported, is to reauthorize and amend the Marine Debris Research, Prevention, and Reduction Act.

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.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MARINE DEBRIS RESEARCH, PREVENTION, AND REDUCTION ACT

SECTION 1. SHORT TITLE.

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

[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. 2. PURPOSE.

The purpose of this Act is to address the adverse impacts of marine debris on the United States economy, the marine environment, and navigation safety through identification, determination of sources, assessment, prevention, reduction, and removal of marine debris.

SEC. 3. NOAA MARINE DEBRIS **[PREVENTION AND REMOVAL] PROGRAM**

(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]** *Program to identify, determine sources of, assess, prevent, reduce,*

and remove the occurrence and 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 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).】

(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 identification, determination of sources, assessment, prevention, reduction, and removal of marine debris;*

(3) *undertake 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; and*

(4) *undertake outreach and education of the public and other stakeholders on sources of marine debris, threats associated with marine debris, and approaches to identify, determine sources of, assess, prevent, reduce, and remove marine debris and its adverse impacts on the United States economy, the marine environment, and navigational safety, including outreach and education activities through public-private initiatives.*

(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)] section 2.*

* * * * *

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

(A) * * *

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[(7)] (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.

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SEC. 5. INTERAGENCY COORDINATION.

(a) * * *

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(c) REPORTS.—

(1) * * *

(2) [ANNUAL PROGRESS REPORTS.—Not later than 3 years after the date of the enactment of this Act, and biennially thereafter] *BIENNIAL PROGRESS REPORTS.—Biennially*, the Interagency Committee, through the chairperson, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on *Natural 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) * * *

* * * * *

SEC. 6. FEDERAL INFORMATION CLEARINGHOUSE.

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

(1) * * *

(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.

SEC. 7. DEFINITIONS.

In this Act:

(1) * * *

* * * * *

(3) *MARINE DEBRIS.—The term “marine debris” means any persistent solid material that is manufactured or processed and directly or indirectly, and intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.*

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

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[(3)] (9) 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.

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SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There [are] *is* authorized to be appropriated for each fiscal year [2006 through 2010—]

[(1)] *through fiscal year 2015* to the Administrator for carrying out sections 3 and 6, [\$10,000,000] \$4,900,000, of which no more than 10 percent may be for administrative costs; and

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