

MARINE DEBRIS RESEARCH, PREVENTION, AND
REDUCTION ACT

DECEMBER 8, 2005.—Ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 362]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 362) 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, 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:

SEC. 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. 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 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 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 Marine Debris Coordinating 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) IN GENERAL.—Not later than 360 days after the enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate on the implementation of the provision of the 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. The report shall include—

- (1) a review of the effectiveness of those provisions in reducing the discard of plastics and other garbage from vessels;
- (2) recommendations on cost effective actions to improve compliance with those provisions;
- (3) a review of the implementation of and compliance with requirements of those provisions that all United States ports and terminals maintain receptacles for disposing of plastics and other garbage, including whether a sufficient quantity of such facilities exists at all such ports and terminals;
- (4) an assessment of the potential economic impacts and technical feasibility of requiring a vessel operator to log the disposal of plastics and other garbage, including at a minimum, the time, date, type of garbage, quantity, and location of discharge by latitude and longitude or, if discharged on land, the name of the port where such material is offloaded for disposal;
- (5) an assessment of the potential economic impacts and technical feasibility of methods to improve ship-board waste management; and
- (6) a strategy to promote international cooperation to reduce marine debris.

(b) VOLUNTARY REPORTING PROGRAM.—The Commandant of the Coast Guard shall develop a voluntary reporting program and establish a central reporting location to receive information from commercial vessel operators, recreational boaters, and the general public regarding incidents of damage to vessels caused by marine debris and observed violations of existing laws and regulations relating to disposal of plastics and other marine debris. The voluntary program developed under this subsection

shall be designed to encourage United States-flag vessels to notify the Coast Guard of ports in other countries that lack adequate port reception facilities for garbage.

(c) VOLUNTARY MEASURES.—The Commandant of the Coast Guard shall develop voluntary measures to prevent and reduce the loss and discard of fishing gear from vessels.

SEC. 5. INTERAGENCY COORDINATION.

(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.

(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 Transportation and Infrastructure 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.

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.

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 5”, 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.

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.

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

(1) to the Administrator for carrying out sections 3 and 7, \$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 sections 4 and 6, \$2,000,000, of which no more than 10 percent may be used for administrative costs.

PURPOSE OF THE BILL

The purpose of S. 362 is 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.

BACKGROUND AND NEED FOR LEGISLATION

The term “marine debris” refers to the trash or litter that floats around the world’s oceans or washes up on beaches. Marine debris comes from a variety of sources on land and at sea. Eighty percent of marine debris comes from land-based sources, and includes such items as cigarette filters, food wrappers, caps and lids. The remaining 20 percent comes from ocean-based activities, which produces debris such as lost or abandoned fishing gear, galley waste, and trash from ships and offshore oil and gas facilities.

The pervasiveness of marine debris and its potential adverse effect on marine organisms, ocean habitats, and human health and safety is of major concern. The life span of marine debris ranges from 2 weeks (for some paper products) to 450 years (in the case of plastics). Each year, marine mammals, sea turtles, fish and seabirds become entangled in marine debris or ingest plastics, causing serious health problems and fatalities.

There are a number of initiatives to reduce and prevent marine debris. Internationally, controls for at-sea dumping of garbage generated on land were enacted in 1972 through the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (referred to as the London Convention). Additional attention was given to marine debris when a 1978 protocol was added to the 1973 International Convention for the Prevention of Pollution by Ships (MARPOL Convention) to prevent at-sea disposal of garbage generated during routine ship operations. Annex V of the MARPOL Convention prohibits all overboard disposal of plastics and limits other discharges based on the material and the vessel’s location and distance from shore.

National marine debris initiatives that affect U.S. waters out to 200 miles and the actions taken by U.S. citizens onboard ships include: the Act to Prevent Pollution from Ships, which implements Annex V of MARPOL, by prohibiting the disposal of garbage within 3 nautical miles of the coast; the Marine Plastic Pollution Research and Control Act; the Driftnet Impact Monitoring, Assessment and Control Act; the Clean Water Act; Title I of the Marine Protection, Research, and Sanctuaries Act (referred to as the Ocean Dumping Act); the Beaches Environmental Assessment and Coastal Health Act; and the Coastal Shore Act. In addition, coastal and Great Lakes states and territories have also instituted laws and entered into public-private initiatives to reduce and prevent marine debris.

From 1985 to 1996, the National Oceanic and Atmospheric Administration (NOAA) developed and directed a comprehensive marine debris and research and management program, which later became the Marine Entanglement Research Program. More recently, Congress has appropriated funds to NOAA to reduce the effects of marine debris in unique and remote ecosystems like the Northwestern Hawaiian Islands. In fiscal year 2005, Congress appropriated \$5 million to NOAA to undertake a national effort focused on identifying, removing, reducing and preventing the occurrence of marine debris, with particular attention on identifying and reducing impacts on endangered and threatened or protected species and sensitive habitats in United States waters.

The U.S. Coast Guard (USCG) currently enforces Annex V of MARPOL on board applicable U.S. and foreign vessels operating in the U.S. and internationally through ensuring compliance with the regulations in 33 Code of Federal Regulations 151, Part A. The USCG also enforces shore side facility regulations found in 33 Code of Federal Regulations 158, Part D. Foreign vessels that must meet MARPOL and U.S. requirements for garbage handling and management have their placards, plans, and equipment evaluated during port state control examinations that take place once each year. The evaluation takes place on board all U.S. certificated vessels during their inspections or reinspections for certification. Any violations of these regulations found by the USCG may result in administrative, civil or criminal actions.

An entire chapter of the U.S. Commission on Ocean Policy report—*An Ocean Blueprint for the 21st Century*—was devoted to the topic of marine debris, emphasizing its status as a serious threat to our marine environment. It points out that although there have been various marine debris programs, no integrated efforts exist to address this growing problem and extensive gaps exist in the current laws. S. 362 will take a much needed step in coordinating the efforts of federal agencies to reduce and prevent marine debris.

COMMITTEE ACTION

S. 362 was introduced on February 10, 2005, by Senator Daniel Inouye (D-HI). S. 362 passed the Senate by unanimous consent on July 1, 2005. In the House of Representatives, the bill was primarily referred to the Committee on Transportation and Infrastructure and additionally to the Committee on Resources. Within the Resources Committee, the bill was referred to the Subcommittee on Fisheries and Oceans. On September 29, 2005, the Subcommittee held a hearing on the bill. On November 16, 2005, the Full Resources Committee met to consider S. 362. The Subcommittee on Fisheries and Oceans was discharged from further consideration of the bill by unanimous consent. Chairman Richard Pombo (R-CA) offered an amendment in the nature of a substitute to clarify NOAA and USCG requirements, amend current law to reactivate the Interagency Marine Debris Coordinating Committee, and refine the reporting requirements in the bill. It was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the bill as the “Marine Debris Research, Prevention, and Reduction Act.”

Section 2. Purposes

This section lists the purposes of the bill which include: to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety; to reactivate the Interagency Marine Debris Coordinating Committee; and to develop a federal marine debris information clearinghouse.

Section 3. NOAA Marine Debris Prevention and Removal Program

This section would establish a Marine Debris Prevention and Removal Program within NOAA that is aimed at reducing and preventing the occurrence and adverse impacts of marine debris on the marine environment and navigational safety. The program would include mapping, identification, impact assessment, removal and prevention of marine debris, with a focus on threats to living marine resources including species protected under the Endangered Species Act and Marine Mammal Protection Act. The program would also include efforts aimed at reducing and preventing loss of fishing gear and a separate outreach and education program. The nonregulatory measures and incentives to cooperatively reduce the volume of lost and discarded fishing gear and to aid in its recovery could include toll free reporting hotlines and computer-based notification forms.

This section would authorize NOAA to provide grants to non-federal entities whose activities affect research or regulation of marine debris and entities with expertise in a field related to marine debris.

This section would establish a 50 percent cost share requirement. However, NOAA would be able to waive the cost share requirement if it determines that no reasonable means are available for the applicant to pay and the probable benefit of the project would outweigh the public interest in the matching requirement. If authorized by NOAA or the Attorney General, the non-federal share of the cost of a project 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.

This section would also require NOAA to promulgate guidelines for implementation of the grant program, including development of criteria and priorities for grants. Grant priorities could include proposals that would reduce new sources of marine debris and provide additional benefits to the public, such as recycling of marine debris or use of biodegradable materials. In developing the guidelines, NOAA would be required to consult with the Interagency Marine Debris Coordinating Committee; Regional Fishery Management Councils; State, regional, and local government entities with marine debris experience; marine dependent industries; and non-governmental organizations.

This section would require NOAA to review each grant proposal to determine if it meets the grant criteria and supports the goals of the Act, take the review into consideration when approving or disapproving the grant, and provide notification of approval or disapproval to the applicant. In addition, each grantee would be required to provide periodic reports as required by NOAA.

Section 4. Coast Guard program

This section would require the Commandant of the Coast Guard to report to Congress. The report should include a review of the effectiveness of the provisions of the MARPOL Annex V and the Act to Prevent Pollution from Ships; recommendations on cost effective actions to improve compliance with these provisions; a review on the implementation of an compliance with those provisions; assess the potential economic impacts and technical feasibility of requir-

ing a vessel operator to log the disposal of plastics and other garbage and methods to improve shipboard waste management; and a strategy to promote international cooperation to reduce marine debris.

This section would also require the Commandant to develop a voluntary reporting program and establish a central reporting location to receive information from commercial vessel operators, recreational boaters, and the general public on vessel damage from marine debris. The voluntary reporting program would also be required to include any reports of violations of existing laws and regulations relating to the disposal of plastic and other marine debris and on the lack of adequate port receptacle facilities in foreign ports.

Section 5. Interagency coordination

This section amends section 2203 of the Marine Plastic Pollution Research and Control Act of 1987 to amend subsection (a) which established the Interagency Marine Debris Coordinating Committee to authorize the Committee to coordinate a comprehensive program of debris research and activities among federal agencies, in cooperation and coordination with nongovernmental organizations, industry, universities, and research institutions, States, Indian tribes, and other nations, as appropriate.

Members of the Committee include NOAA, USCG, Environmental Protection Agency, and the U.S. Navy. Other agencies that have an interest in ocean issues or water pollution prevention and control that could also be members of the Committee include the National Aeronautics Space Administration, the Maritime Administration, U.S. Fish and Wildlife Service, the Department of State, as well as other interested federal agencies.

This section would require the Administrator of NOAA and the Commandant of the Coast Guard to jointly develop and promulgate through regulations a definition of the term “marine debris” for the purposes of this Act.

This section would require the Interagency Committee to submit two reports to Congress. The first report would be an Interagency report on marine debris impacts and strategies to be completed 12 months after the date of enactment of this Act. The second report would be a biennial report that evaluates the United States and international progress in meeting the purposes of this Act.

Section 6. Federal information clearinghouse

This section would require NOAA, in coordination with the Interagency Committee, to maintain a federal information clearinghouse on marine debris. The data collected pursuant to section (3)(b)(I) of this Act could be used as the basis for the federal information clearinghouse. The data in the clearinghouse 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. NOAA would be required to ensure the confidentiality of proprietary information required by the agency to be submitted by the fishing industry.

Section 7. Definitions

This section defines the terms “Administrator,” “Interagency Committee,” “MARPOL,” “Annex V,” “Convention,” “U.S. Exclusive Economic Zone,” “Navigable Waters,” “Territorial Sea,” “Program,” and “State.”

Section 8. Relationship to Outer Continental Shelf Lands Act

This section states that nothing in this Act supercedes, or limits the authority of the Secretary of the Interior under, the Outer Continental Shelf Lands Act.

Section 9. Authorization of appropriations

This section would authorize appropriations for NOAA and USCG for fiscal years 2006–2010. NOAA would receive \$10 million each year and USCG would receive \$2 million each year. Each agency would have a 10 percent cap on administrative costs.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(I) of rule XIII of the Rules of the House of Representatives, the Committee on Resources’ oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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)(3)(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.

2. 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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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 is 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.

4. Congressional Budget Office Cost Estimate. 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:

S. 362—Marine Debris Research, Prevention, and Reduction Act

Summary: S. 362 would establish a program to reduce the amount of marine debris (such as plastic and lost fishing gear) in oceans and coastal areas and to mitigate its effects on health and navigation safety. Under the legislation, the National Oceanic and Atmospheric Administration (NOAA) would conduct projects to identify and catalogue debris hazards and determine its sources and to develop methods of removing existing debris and preventing further occurrences. S. 362 would authorize NOAA to provide grants to nonfederal entities such as state or local governments and universities involved with those activities. The act also would direct the U.S. Coast Guard (USCG) to improve enforcement of existing laws and treaties that address ocean pollution waste disposal at sea. For these purposes, the act would authorize the appropriation of \$12 million (\$10 million to NOAA and \$2 million to the USCG) for each of fiscal years 2006 through 2010.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 362 would cost \$2 million in fiscal year 2006 and \$60 million over the 2006–2010 period. Enacting this legislation would have no effect on revenues or direct spending.

S. 362 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state, local, or tribal governments would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 362 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 400 (transportation). For this estimate, CBO assumes that S. 362 will be enacted in December 2005, that the authorized amounts will be appropriated for each year, and that outlays will follow historical spending patterns for similar activities of the agencies involved.

	By fiscal year, in millions of dollars—				
	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	12	12	12	12	12
Estimated Outlays	2	13	15	15	15

Intergovernmental and private-sector impact: S. 362 contains no intergovernmental or private-sector mandates as defined in UMRA; any costs to state, local, or tribal governments would result from complying with conditions of federal assistance.

Previous CBO estimate: On March 18, 2005, CBO submitted a cost estimate for S. 362, the Marine Debris Research, Prevention, and Reduction Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 10, 2005. The two versions of the legislation are very similar but, as reflected in the CBO estimate, the House version of S. 362 contains lower authorization levels for the USCG. The estimate for the House version also reflects a later assumed enactment date.

Also, the Senate version of the legislation contains intergovernmental and private-sector mandates because it would require the Coast Guard to issue regulations to improve the disposal of plastics

and other garbage at ports. The mandates statements reflect these differences.

Estimate prepared by: Federal Costs: Deborah Reis. Impact on State, Local, and Tribal Governments: Sara Puro. Impact on the Private Sector: Selena Caldera.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

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

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS OF REPRESENTATIVE FRANK
PALLONE, JR.

Marine debris remains a serious problem compromising the health of the global ocean environment. Each year, millions of marine mammals, sea turtles, fish and seabirds become entangled in marine debris or ingest plastics which they have mistaken for food. Both interactions often kill wildlife ultimately through starvation, exhaustion, poisoning or infection from deep wounds or internal injuries. An estimated 1,267 different marine species have been reported to have been entangled in or to have ingested marine debris. Humans can also be affected directly by marine debris. Swimmers and divers can become entangled in abandoned netting and fishing line and beach users can be injured by stepping on broken glass, cans, needles or other litter. Marine debris also acts as a navigational hazard by entangling propellers and clogging cooling water intake valves. Furthermore, floating debris is visually unappealing and can result in lost tourism revenues. For example, New Jersey lost an estimated \$2 billion in tourist revenue during the 1987–88 beach seasons as a result of hazardous debris, especially medical waste, washing ashore.

The U.S. Commission on Ocean Policy (Commission) devoted an entire chapter to this matter in its Final Report, released on September 20, 2004. The Commission determined that current Federal efforts are insufficient to address the global scale of the problem and recommended several action steps. Summarizing, the Commission advocated the reestablishment of a marine debris program within the National Oceanic and Atmospheric Administration (NOAA), better Federal interagency coordination, development of public private partnerships with local governments, community groups and industry, enhancement of public outreach and education, better enforcement of existing laws, assurance of adequate facilities to dispose of ship wastes, and development of an international plan of action to target derelict fishing gear.

For these reasons I introduced in the House identical companion legislation (H.R. 3692) to S. 362. Sadly, the Committee-passed legislation departs from the spirit and intent of the bill that passed through the Senate by unanimous consent on July 1, 2005. In its haste to report legislation, the majority insisted on re-writing portions of the Senate-passed bill to retard the full measure of the Commission's recommendations, particularly provisions relevant to regulatory and enforcement activities of the United States Coast Guard. That the bill was reported in a bipartisan manner reflects more a recognition by myself and other Democrat members of the seriousness of the problem and the need for congressional action rather than a consensus endorsement of the Committee's final product. This legislation should be considered a work in progress rather than finished legislation and I urge that the bill, as re-

ported, be refined and improved to recapture the intent of the Commission's recommendations, either during subsequent consideration by the House Committee on Transportation and Infrastructure or during conference committee deliberations with the other body.

The bill reported by the Committee could have retained important provisions from the Senate companion. Cumulatively, these provisions would have a net positive impact on controlling and eliminating marine debris, and according to the Congressional Budget Office, at negligible cost to the economy. The following specific items should be reincorporated into a final House bill.

- *Strengthening of Coast Guard Enforcement Activities.* Section 4 of the Committee's reported bill would require the Coast Guard to report within one year on its marine debris enforcement activities and develop voluntary measures to reduce marine debris. In contrast, Section 4 of the Senate-passed bill would require the Coast Guard to undertake economically feasible and cost-effective measures to reduce violations regarding vessel discard of plastics and other garbage, adopt regulations to require ports and terminals to better provide facilities and methods to track disposal of vessel wastes, close vessel waste disposal record keeping gaps, and improve shipboard waste management. These provisions are consistent with existing International Maritime Organization (IMO) guidelines adopted under MARPOL Annex V and Section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905). They also mirror recommendations by the Commission.

- *Development of a Genuine International Strategy.* Section 6 of the Senate-passed bill directs a newly established Interagency Marine Debris Committee to develop an international strategy to reduce marine debris. This strategy would have binding implications in international and regional agreements, strengthen international compliance with MARPOL Annex V, and enhance marine debris data collection, identification and monitoring. The Committee's reported bill de-emphasizes this important provision by eliminating it as a directive and by subordinating mention of it within a new biennial report on domestic activities to be issued by a re-established Interagency Marine Debris Coordinating Committee. Such a revision is contrary to both the broad intent of the Commission's recommendations, especially the specific recommendation to take action internationally to address lost, discarded or abandoned fishing gear.

- *Restore Coast Guard Funding Authorization.* The Senate-passed legislation authorized \$5 million per year for fiscal years 2006 to 2010 for Coast Guard implementation of the bill's requirements. The Committee's reported bill cuts annual Coast Guard funding by 60 percent to \$2 million per year. Should the legislation be subsequently revised to re-incorporate these other important Coast Guard directives, higher authorized funding levels should be restored.

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