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GULF OF MEXICO RESTORATION AND PROTECTION ACT

—————
AUGUST 2, 2010.—Ordered to be printed
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Mrs. BOXER, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 1311]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1311) to amend the Federal Water Pollution Control Act to strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

GENERAL STATEMENT AND BACKGROUND

The Gulf of Mexico ecosystem provides a wide array of valuable resources. Encompassing over five million acres (about half of the U.S. total), the Gulf's coastal wetlands serve as an essential habitat for a broad array of economically important fish and wildlife species, including migrating waterfowl and sport and commercial fisheries. According to the National Ocean Economics Program, the Gulf Coast tourism, recreation, and fishing ocean economies generate \$18.9 billion in economic activity and support more than 400,000 jobs.

There are numerous threats to the Gulf of Mexico ecosystem, including the world's second largest zone of hypoxia or "dead zone" which affects the region's seafood production. The Gulf of Mexico Alliance reported in 2008 that the major commercial fishing ports of the Gulf of Mexico region bring in over 1.2 billion pounds of fresh seafood every year. The resource productivity and water qual-

ity of the Gulf of Mexico and its watershed have been diminished by point and nonpoint source pollution.

The Gulf of Mexico Program was initiated in 1988 by the U.S. Environmental Protection Agency (EPA) as a non-regulatory program. Founded on the threefold principles of partnership, science-based information, and citizen involvement, the mission of the Program is to facilitate collaborative actions to protect, maintain, and restore the health and productivity of the Gulf of Mexico in ways consistent with the economic well-being of the Region. When it was established in 1988, the Gulf Program joined the Great Lakes and Chesapeake Bay Programs as flagships of the nation's efforts to apply an adaptive management approach to large coastal freshwater and marine ecosystems. However, unlike the Chesapeake Bay and Great Lakes programs, the Gulf of Mexico program does not have specific statutory authority.

S. 1311 amends the Clean Water Act to reestablish a Gulf of Mexico Program Office that will continue to coordinate Federal agency efforts and support non-Federal efforts to protect and restore the Gulf of Mexico. The bill retains the current program office structure and authorities. The bill retains and codifies the authorities of the EPA Administrator to utilize interagency agreements and provide grants to carry out this Program and this Act.

OBJECTIVES OF THE LEGISLATION

This objective of the legislation is to strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 notes that this Act may be cited as the "Gulf of Mexico Restoration and Protection Act".

Section 2. Findings and purposes

This section establishes Congressional findings, including the following: the Gulf of Mexico is a valuable resource of national and international importance; over many years, the resource productivity and water quality of the Gulf of Mexico and its watershed have been diminished by point and nonpoint source pollution; and the United States should seek to attain the protection and restoration of the Gulf of Mexico ecosystem as a collaborative regional goal of the Gulf of Mexico Program.

This section also states that the purposes of this Act are:

- to expand and strengthen cooperative voluntary efforts to restore and protect the Gulf of Mexico;
- to expand Federal support for monitoring, management, and restoration activities in the Gulf of Mexico and its watershed;
- to commit the United States to a comprehensive cooperative program to achieve improved water quality in, and improvements in the productivity of living resources of, the Gulf of Mexico; and

- to establish a Gulf of Mexico Program to serve as a national and international model for the collaborative management of large marine ecosystems.

Section 3. Gulf of Mexico restoration and protection

This section amends Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) to expand and strengthen cooperative efforts to monitor, restore, and protect the resource productivity, water quality, and marine ecosystems of the Gulf of Mexico.

This section reestablishes the Gulf of Mexico Program as an office of the EPA. It requires the Office to: (1) coordinate the actions of EPA and of other federal agencies and state and local authorities; (2) assist in developing specific action plans to carry out the program; (3) coordinate and implement priority state- and community-led restoration plans and projects and facilitate activities that support the program; (4) implement outreach programs to foster stewardship of the Gulf's resources; (5) develop and make available information about the environmental quality and living resources of the Gulf; (6) serve as the liaison with the Mexican members of the Gulf of Mexico States Accord and Mexican counterparts of the EPA; and (7) focus on activities that will result in measurable improvements to water quality and living resources of the Gulf of Mexico ecosystem.

This section also authorizes the EPA Administrator to enter into interagency agreements to carry out this Act and authorizes the Administrator to provide grants for multiple activities to protect and restore the Gulf of Mexico.

LEGISLATIVE HISTORY

The Gulf of Mexico Restoration and Protection Act was introduced by Senator Wicker on June 19, 2009 and is co-sponsored by Senators Cochran, Landrieu, Vitter, and Nelson. The bill was received, read twice, and referred to the Senate Committee on Environment and Public Works.

On November 9, 2009, the Subcommittee on Water and Wildlife held a hearing on S. 1311 and related bills. On June 30, 2010, the Full Committee met to consider a number of bills including S. 1311. During this meeting, the Committee adopted an amendment in the nature of a substitute that made technical changes and improvements to the bill. S. 1311 was ordered to be reported favorably with an amendment in the nature of a substitute by voice vote.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1311 on June 30, 2010. The bill was ordered to be reported favorably with an amendment in the nature of a substitute by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee finds that S. 1311 does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee noted that the Congressional Budget Office (CBO) has found, “S. 1311 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.”

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JULY 8, 2010.

Hon. BARBARA BOXER,
Chairman, Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1311, the Gulf of Mexico Restoration and Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1311—Gulf of Mexico Restoration and Protection Act

Summary: S. 1311 would authorize appropriations for the Gulf of Mexico Program Office within the Environmental Protection Agency (EPA). The office would be responsible for many activities related to supporting efforts to monitor, restore, and protect the water quality and marine ecosystems of the Gulf of Mexico. This legislation would authorize the appropriation of \$90 million over the 2011–2014 period for program costs and grants to nonprofit organizations, state and local governments, colleges and universities, and interstate agencies for various activities, including researching the effects of environmental changes on the water quality of the Gulf of Mexico and developing and implementing restoration programs associated with the gulf’s ecosystem.

Assuming appropriation of the authorized funds, CBO estimates that implementing S. 1311 would cost \$87 million over the 2011–2015 period and \$3 million after 2015.

Pay-as-you-go procedures would not apply to this legislation because it would not affect direct spending or revenues.

S. 1311 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 S. 1311 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—					
	2011	2012	2013	2014	2015	2011–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	15	25	25	25	0	90

	By fiscal year, in millions of dollars—					
	2011	2012	2013	2014	2015	2011–2015
Estimated Outlays	7	17	24	25	14	87

Basis of estimate: For this estimate, CBO assumes that S. 1311 will be enacted near the beginning of fiscal year 2011 and that the authorized amounts will be appropriated in each year. Estimated outlays are based on historical spending patterns for similar grants and programs.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 1311 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State and local governments, public colleges, and universities could benefit from grants authorized by the bill.

Estimate prepared by: Federal costs: Susanne S. Mehlman; Impact on state, local, and tribal governments: Ryan Miller; Impact on the private sector: Amy Petz.

Estimate approved by: Sam Papenfuss, Unit Chief for Income Security and Education Cost Estimates Unit, Budget Analysis Division.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, 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:

* * * * *

FEDERAL WATER POLLUTION CONTROL ACT

* * * * *

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) * * *

* * * * *

SEC. 122. WET WEATHER WATERSHED PILOT PROJECTS.

(a) IN GENERAL.—* * *

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SEC. 123. GULF OF MEXICO RESTORATION AND PROTECTION.

(a) DEFINITIONS.—*In this section;*

(1) GULF OF MEXICO ECOSYSTEM.—*The term ‘Gulf of Mexico ecosystem’ means the ecosystem of the Gulf of Mexico and its watershed.*

(2) GULF OF MEXICO EXECUTIVE COUNCIL.—*The term ‘Gulf of Mexico Executive Council’ means the formal collaborative Federal, State, local, and private participants in the Program.*

(3) PROGRAM.—*The term ‘Program’ means the Gulf of Mexico Program established by the Administrator in 1988 as a non-*

regulatory, inclusive partnership to provide a broad geographic focus on the primary environmental issues affecting the Gulf of Mexico.

(4) PROGRAM OFFICE.—*The term ‘Program Office’ means the office established by the Administrator to administer the Program that is reestablished by subsection (b)(1)(A).*

(b) CONTINUATION OF GULF OF MEXICO PROGRAM.—

(1) GULF OF MEXICO PROGRAM OFFICE.—

(A) REESTABLISHMENT.—*The Program Office established before the date of enactment of this section by the Administrator is reestablished as an office of the Environmental Protection Agency.*

(B) REQUIREMENTS.—*The Program Office shall be—*

- (i) headed by a Director who, by reason of management experience and technical expertise relating to the Gulf of Mexico, is highly qualified to direct the development of plans and programs on a variety of Gulf of Mexico issues, as determined by the Administrator; and*
- (ii) located in a State all or a portion of the coastline of which is on the Gulf of Mexico.*

(C) FUNCTIONS.—*The Program Office shall—*

- (i) coordinate the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies—*

(I) to improve the water quality and living resources in the Gulf of Mexico ecosystem; and

(II) to obtain the support of appropriate officials;

- (ii) in cooperation with appropriate Federal, State, and local authorities, assist in developing and implementing specific action plans to carry out the Program;*

(iii) coordinate and implement priority State-led and community-led restoration plans and projects, and facilitate science, research, modeling, monitoring, data collection, and other activities that support the Program through the provision of grants under subsection (d);

(iv) implement outreach programs for public information, education, and participation to foster stewardship of the resources of the Gulf of Mexico;

(v) develop and make available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Gulf of Mexico ecosystem;

(vi) serve as the liaison with, and provide information to, the Mexican members of the Gulf of Mexico States Accord and Mexican counterparts of the Environmental Protection Agency; and

(vii) focus the efforts and resources of the Program Office on activities that will result in measurable improvements to water quality and living resources of the Gulf of Mexico ecosystem.

(c) INTERAGENCY AGREEMENTS.—*The Administrator may enter into 1 or more interagency agreements with other Federal agencies to carry out this section.*

(d) GRANTS.—

(1) IN GENERAL.—*In accordance with the Program, the Administrator, acting through the Program Office, may provide grants to nonprofit organizations, State and local governments, colleges, universities, interstate agencies, and individuals to carry out this section for use in—*

(A) *monitoring the water quality and living resources of the Gulf of Mexico ecosystem;*

(B) *researching the effects of natural and human-induced environmental changes on the water quality and living resources of the Gulf of Mexico ecosystem;*

(C) *developing and executing cooperative strategies that address the water quality and living resource needs in the Gulf of Mexico ecosystem;*

(D) *developing and implementing locally based protection and restoration programs or projects within a watershed that complement those strategies, including the creation, restoration, protection, or enhancement of habitat associated with the Gulf of Mexico ecosystem; and*

(E) *eliminating or reducing nonpoint sources that discharge pollutants that contaminate the Gulf of Mexico ecosystem, including activities to eliminate leaking septic systems and construct connections to local sewage systems.*

(2) FEDERAL SHARE.—*The Federal share of the cost of any project or activity carried out using a grant provided under this section shall not exceed 75 percent, as determined by the Administrator.*

(3) ADMINISTRATIVE COSTS.—*Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects carried out using funds made available through a grant under this subsection shall not exceed 15 percent of the amount of the grant.*

(e) REPORTS.—

(1) ANNUAL REPORT.—*Not later than December 30, 2009, and annually thereafter, the Director of the Program Office shall submit to the Administrator and make available to the public a report that describes—*

(A) *each project and activity funded under this section during the previous fiscal year;*

(B) *the goals and objectives of those projects and activities; and*

(C) *the net benefits of projects and activities funded under this section during previous fiscal years.*

(2) ASSESSMENT.—

(A) IN GENERAL.—*Not later than April 30, 2011, and every 5 years thereafter, the Administrator, in coordination with the Gulf of Mexico Executive Council, shall complete an assessment, and submit to Congress a comprehensive report on the performance, of the Program.*

(B) REQUIREMENTS.—*The assessment and report described in subparagraph (A) shall—*

(i) *assess the overall state of the Gulf of Mexico ecosystem;*

(ii) *compare the current state of the Gulf of Mexico ecosystem with a baseline assessment;*

(iii) *include specific measures to assess any improvements in water quality and living resources of the Gulf of Mexico ecosystem;*

(iv) *assess the effectiveness of the Program management strategies being implemented, and the extent to which the priority needs of the region are being met through that implementation; and*

(v) *make recommendations for the improved management of the Program, including strengthening strategies being implemented or adopting improved strategies.*

(f) BUDGET ITEM.—*The Administrator, in the annual submission to Congress of the budget of the Environmental Protection Agency, shall include a funding line item request for the Program Office as a separate budget line item.*

(g) LIMITATION ON REGULATORY AUTHORITY.—*Nothing in this section establishes any new legal or regulatory authority of the Administrator other than the authority to provide grants in accordance with this section.*

(h) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to carry out this section, to remain available until expended—*

(1) *\$10,000,000 for fiscal year 2010;*

(2) *\$15,000,000 for fiscal year 2011; and*

(3) *\$25,000,000 for each of fiscal years 2012 through 2014.*