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Marcel De Armas

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CHANGING TIDES: THE NEED FOR NEW LEGISLATION TO PREVENT ALGAE BLOOMS

by Marcel De Armas*

Under normal conditions, many species of algae form the base of the ocean's food chain and support the growth of aquatic and terrestrial animals.¹ However, algae can grow out of control creating a large mass called a harmful algae bloom ("HAB") that produces dangerous toxins and threatens both humans and aquatic animals.² In 2003, Congress passed legislation promoting more research on HABs in an attempt to prevent the damaging effects of these blooms on our oceans and lakes.³ Nevertheless, even after Congress recognized that a single HAB can cost millions of dollars in damage, it has not passed any legislation aimed at preventing or controlling this problem.⁴

Red tide, a form of HAB, is prevalent in oceans worldwide, including in all major bodies of water that touch the United States.⁵ States and people affected by red tide, or other HABs, often suffer economically and socially because of beach closings and bans on shellfish harvests. For example, red tide forced the governors of Maine and Massachusetts to declare states of emergency during the summer of 2005; federal aid was also requested to soften the financial impact of an HAB on the shellfish industry.⁶

Additionally, there are often fatal consequences for animals that consume shellfish containing toxins from HABs.⁷ In a one-year period, researchers found HABs responsible for the deaths of 72 manatees in Florida, along with 57 dolphins, and 319 sea lions in California.⁸ What makes addressing the HAB issue even more difficult is the fact that many estuaries located in the U.S. are affected by different species of algae that produce a diverse range of toxins. Consequently, the varied effects of algae species lead to the erroneous belief that a decentralized approach will best solve the problems created by HABs. Unfortunately, many of the factors believed to support the growth of algae blooms are

the same throughout all coastal waters: (1) increased water temperatures; (2) coastal water pollution; and (3) algae cyst deposits.⁹

The combination of warmer waters and the increase of pollution run-off into rivers will only intensify the problem and create larger areas of blooms.¹⁰ While Congress should be applauded for conducting and promoting research on HABs, it needs to move beyond research and start protecting these vulnerable ecosystems before these blooms permanently damage our coastal waters and the surrounding environments.



Algae can grow out of control creating a large mass called a harmful algae bloom.

Endnotes:

¹ See H.R. REP. NO. 108-326, at 5 (2003).

² *Id.* 5-6 H.R. REP. NO. 108-326, *id.* at 5-6.

³ See Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 §§ 601-05, 16 U.S.C. § 1451 (2006).

⁴ See H.R. REP. NO. 108-326, at 6 (2003).

⁵ See WHO, *Algae and Cyanobacteria in Coastal and Estuarine Waters*, in

GUIDELINES FOR SAFE RECREATIONAL WATER ENVIRONMENTS, available at http://www.who.int/water_sanitation_health/bathing/srwe1-chap7.pdf (last visited Oct. 24, 2006)

⁶ *Tide Pushing Shellfishers Into Red*, USA TODAY, June 12, 2005, available at http://www.usatoday.com/news/nation/2005-06-12-red-tide_x.htm (last visited Oct. 23, 2006) [hereinafter Red Tide].

⁷ See H.R. REP. NO. 108-326, at 5-6 (2003).

⁸ H.R. REP. NO. 108-326, at 5-6 (2003).

⁹ See Red Tide, *supra* note 6.

¹⁰ See H.R. REP. NO. 108-326 (2003).

* Marcel De Armas is a JD candidate, May 2008, at American University, Washington College of Law.