

107TH CONGRESS
1ST SESSION

S. 1034

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to require the Secretary of Transportation to promulgate and review regulations to ensure, to the maximum extent practicable, that vessels entering the Great Lakes do not spread nonindigenous aquatic species, to require treatment of ballast water and its sediments through the most effective and efficient techniques available, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2001

Ms. STABENOW (for herself, Mr. FITZGERALD, Mr. LEVIN, Mr. KOHL, Mr. FEINGOLD, Mr. DURBIN, Mr. DAYTON, Mr. WELLSTONE, Mr. DEWINE, Mr. VOINOVICH, Mr. SCHUMER, Mr. BAYH and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science and Transportation

A BILL

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to require the Secretary of Transportation to promulgate and review regulations to ensure, to the maximum extent practicable, that vessels entering the Great Lakes do not spread nonindigenous aquatic species, to require treatment of ballast water and its sediments through the most effective and efficient techniques available, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Great Lakes Ecology
3 Protection Act”.

4 **SEC. 2. BALLAST WATER TREATMENT REGULATIONS.**

5 (a) IN GENERAL.—Section 1101(b) of the Nonindige-
6 nous Aquatic Nuisance Prevention and Control Act of
7 1990 (16 U.S.C. 4711(b)) is amended—

8 (1) by redesignating paragraph (4) as para-
9 graph (5); and

10 (2) by striking “(3) ADDITIONAL REGULA-
11 TIONS.—In addition” and inserting the following:

12 “(3) REGULATIONS CONCERNING AQUATIC NUI-
13 SANCE SPECIES.—

14 “(A) IN GENERAL.—The Secretary of
15 Transportation shall, in consultation with the
16 Secretary of the Interior, the Secretary of Com-
17 merce, the Secretary of Defense, the Adminis-
18 trator of the Environmental Protection Agency,
19 the Governors of States that border the Great
20 Lakes, and in accordance with this paragraph,
21 promulgate and review regulations to prevent,
22 to the maximum extent practicable, the intro-
23 duction and spread of aquatic nuisance species
24 in the Great Lakes.

1 “(B) CONTENTS OF REGULATIONS.—The
2 regulations promulgated under subparagraph
3 (A)—

4 “(i) shall apply to all vessels capable
5 of discharging ballast water (including ves-
6 sels equipped with ballast water tank sys-
7 tems or other water tank systems) that
8 enter the Great Lakes after operating on
9 water outside of the Exclusive Economic
10 Zone;

11 “(ii) shall ensure, to the maximum ex-
12 tent practicable, that ballast water con-
13 taining aquatic nuisance species is not dis-
14 charged into the Great Lakes (including by
15 establishing the standard described in
16 clause (iii));

17 “(iii) shall include a ballast water
18 treatment standard for vessels that elect to
19 carry out ballast water management or
20 treatment that, at a minimum, requires—

21 “(I) a demonstrated 95 percent
22 volumetric exchange of ballast water;
23 or

24 “(II) a ballast treatment that de-
25 stroys not less than 95 percent of all

1 animal fauna in a standard ballast
2 water intake, as approved by the Sec-
3 retary;

4 “(iv) shall protect the safety of each
5 vessel (including crew and passengers);

6 “(v) shall include requirements on
7 new vessel construction to ensure that ves-
8 sels entering service after January 1,
9 2005, minimize the transfer of organisms;

10 “(vi) shall require vessels to carry out
11 any discharge or exchange of ballast water
12 within the Great Lakes only in compliance
13 with the regulations;

14 “(vii) shall be promulgated after tak-
15 ing into consideration a range of vessel op-
16 erating conditions, from normal to ex-
17 treme;

18 “(viii) shall—

19 “(I) ensure that technologies and
20 practices implemented under this sec-
21 tion are environmentally sound treat-
22 ment methods for ballast water and
23 ballast sediments that prevent and
24 control infestations of aquatic nui-
25 sance species; and

1 “(II) include a detailed timetable
2 for—

3 “(aa) the implementation of
4 treatment methods determined to
5 be technologically available and
6 cost-effective at the time of the
7 publication of the notice of pro-
8 posed rulemaking; and

9 “(bb) the development, test-
10 ing, evaluation, approval, and im-
11 plementation of additional tech-
12 nologically innovative treatment
13 methods;

14 “(ix) shall provide for certification by
15 the master of each vessel entering the
16 Great Lakes that the vessel is in compli-
17 ance with the regulations;

18 “(x) shall ensure compliance with the
19 regulations, to the maximum extent prac-
20 ticable, through—

21 “(I) sampling or monitoring pro-
22 cedures;

23 “(II) the inspection of records;

1 “(III) the imposition of sanctions
 2 in accordance with subsection (g)(1);
 3 and

4 “(IV) the certification of ballast
 5 water treatment vendors and vessel
 6 vendors;

7 “(xi) shall be based on the best sci-
 8 entific information available;

9 “(xii) shall not supersede or adversely
 10 affect any requirement or prohibition per-
 11 taining to the discharge of ballast water
 12 into water of the United States under the
 13 Federal Water Pollution Control Act (33
 14 U.S.C. 1251 et seq.); and

15 “(xiii) shall include such other re-
 16 quirements as the Secretary of Transpor-
 17 tation considers appropriate.

18 “(C) REGULATORY SCHEDULE.—

19 “(i) NOTICE OF PROPOSED RULE-
 20 MAKING.—

21 “(I) IN GENERAL.—Not later
 22 than 120 days after the date of enact-
 23 ment of the Great Lakes Ecology Pro-
 24 tection Act, the Secretary of Trans-
 25 portation shall publish, in the Federal

1 Register and through other means de-
2 signed to reach persons likely to be
3 subject to or affected by the regula-
4 tions (including publication in local
5 newspapers and by electronic means),
6 a notice of proposed rulemaking con-
7 cerning the regulations proposed to be
8 promulgated under this paragraph.

9 “(II) FINAL REGULATIONS.—The
10 Secretary of Transportation shall pro-
11 mulgate final regulations under this
12 paragraph—

13 “(aa) with respect to the im-
14 plementation of treatment meth-
15 ods described in subparagraph
16 (B)(vii)(II)(aa), not later than
17 270 days after the date of enact-
18 ment of the Great Lakes Ecology
19 Protection Act; and

20 “(bb) with respect to the ad-
21 ditional technologically innovative
22 treatment methods described in
23 subparagraph (B)(vii)(II)(bb),
24 not later than the earlier of—

1 “(AA) the date estab-
2 lished by the timetable
3 under subparagraph
4 (B)(vii)(II) for implementa-
5 tion of those methods; or

6 “(BB) 720 days after
7 the date of enactment of the
8 Great Lakes Ecology Protec-
9 tion Act.

10 “(III) REVIEW AND REVISION OF
11 REGULATIONS.—Not later than 3
12 years after the date on which final
13 regulations are promulgated under
14 this subparagraph, and every 3 years
15 thereafter, the Secretary shall review
16 and revise as necessary, the
17 regulations—

18 “(aa) to improve the effec-
19 tiveness of the regulations; and

20 “(bb) to incorporate better
21 management practices and bal-
22 last water treatment standards
23 and methods.

1 “(IV) PUBLIC PARTICIPATION.—

2 The Secretary of Transportation
3 shall—

4 “(aa) provide not less than
5 120 days for public comment on
6 the proposed regulations; and

7 “(bb) provide for an effec-
8 tive date that is not less than 30
9 days after the date of publication
10 of the final regulations.

11 “(4) ADDITIONAL REGULATIONS.—In addition”.

12 (b) DEFINITION OF TREATMENT METHOD.—Section
13 1003 of the Nonindigenous Aquatic Nuisance Prevention
14 and Control Act of 1990 (16 U.S.C. 4702) is amended—

15 (1) by redesignating paragraphs (13), (14),
16 (15), (16), and (17) as paragraphs (14), (15), (16),
17 (17), and (18), respectively; and

18 (2) by inserting after paragraph (12) the fol-
19 lowing:

20 “(13) ‘treatment method’ means a method for
21 treatment of the contents of a ballast water tank
22 (including the sediments within the tank) to remove
23 or destroy nonindigenous organisms through—

24 “(A) filtration;

1 “(B) the application of biocides or ultra-
2 violet light;

3 “(C) thermal methods; or

4 “(D) other treatment techniques that meet
5 applicable ballast water treatment standards, as
6 approved by the Secretary;”.

7 **SEC. 3. INVASIVE SPECIES AND BALLAST WATER TECH-**
8 **NOLOGIES RESEARCH GRANTS.**

9 (a) GRANTS AUTHORIZED.—The Secretary of Com-
10 merce, through the National Oceanic and Atmospheric Ad-
11 ministration, and in consultation with the Secretary of the
12 Interior, the Secretary of Agriculture, the Secretary of
13 Transportation, and the Administrator of the Environ-
14 mental Protection Agency, is authorized to award Invasive
15 Species and Ballast Water Technologies Research Grants.

16 (b) USE OF FUNDS.—Grants awarded under sub-
17 section (a) may be used to—

18 (1) study the impact of invasive species on the
19 environment of the Great Lakes region; and

20 (2) develop technologies and treatment meth-
21 ods, including ballast water tank technology, de-
22 signed to destroy or remove invasive species.

23 (c) ELIGIBLE RECIPIENTS.—

1 (1) IN GENERAL.—The Secretary may award
2 grants under subsection (a) to any post-secondary
3 educational institution in the United States.

4 (2) SPECIAL CONSIDERATION FOR INSTITU-
5 TIONS COLLABORATING WITH INDUSTRY.—In award-
6 ing grants under subsection (a), the Secretary shall
7 give special consideration to post-secondary edu-
8 cational institutions that work collaboratively with
9 members of the United States shipping industry to
10 carry out an activity for which grant funds may be
11 used under subsection (b).

12 (d) AVAILABILITY AND MARKETING OF TECH-
13 NOLOGY.—In awarding grants under subsection (a), the
14 Secretary shall ensure that to the greatest extent prac-
15 ticable, technologies and treatments developed as the re-
16 sult of a grant awarded under subsection (a) are made
17 commercially available.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to carry out the provi-
20 sions of this section \$100,000,000 for the period of fiscal
21 year 2002 through fiscal year 2006.

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