

109TH CONGRESS
2D SESSION

H. R. 5100

To establish a collaborative program to protect the Great Lakes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2006

Mr. EHLERS (for himself, Mr. EMANUEL, Mr. REYNOLDS, Mr. KIRK, Mr. DINGELL, Mr. HOEKSTRA, Mr. BISHOP of New York, Ms. MCCOLLUM of Minnesota, Mr. RYAN of Ohio, Mr. ENGLISH of Pennsylvania, Mr. KIND, Mr. KILDEE, Ms. BEAN, Mr. HIGGINS, Ms. SLAUGHTER, Mr. STUPAK, Ms. SCHAKOWSKY, Mr. EVANS, Mr. LEVIN, Mr. BROWN of Ohio, Mr. GUTIERREZ, Ms. KAPTUR, Mr. STRICKLAND, Mr. LIPINSKI, Ms. MOORE of Wisconsin, Mr. LATOURETTE, Mr. UPTON, Mr. MCCOTTER, and Mr. CAMP) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources, Science, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a collaborative program to protect the Great Lakes, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Great Lakes Collaboration Implementation Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.

TITLE I—INVASIVE SPECIES PREVENTION

Subtitle A—National Aquatic Invasive Species

- Sec. 101. Short title.
- Sec. 102. Findings.
- Sec. 103. Definitions.

CHAPTER 1—PREVENTION OF INTRODUCTION OF AQUATIC INVASIVE
SPECIES INTO WATERS OF THE UNITED STATES BY VESSELS

- Sec. 104. Vessel pathway requirements.
- Sec. 105. Requirements for new vessels.
- Sec. 106. Great Lakes program.
- Sec. 107. Authority of Secretary; regulations.
- Sec. 108. Sanctions.
- Sec. 109. Program coordination.
- Sec. 110. Vessel safety.
- Sec. 111. Relationship to other law.
- Sec. 112. Armed services whole vessel management program.
- Sec. 113. Conforming amendments.

CHAPTER 2—PREVENTION OF THE INTRODUCTION OF AQUATIC INVASIVE
SPECIES BY OTHER PATHWAYS

- Sec. 114. Priority pathway management program.
- Sec. 115. Screening process for planned importations of live aquatic organisms.

CHAPTER 3—EARLY DETECTION; RAPID RESPONSE; CONTROL AND
OUTREACH

- Sec. 116. Early detection.
- Sec. 117. Rapid response.
- Sec. 118. Dispersal barriers.
- Sec. 119. Environmental soundness.
- Sec. 120. Information, education, and outreach.

CHAPTER 4—COORDINATION

- Sec. 121. Program coordination.
- Sec. 122. International coordination.

CHAPTER 5—AUTHORIZATION OF APPROPRIATIONS

- Sec. 123. Authorization of appropriations.

CHAPTER 6—CONFORMING AMENDMENTS

- Sec. 124. Conforming amendments.

Subtitle B—Aquatic Invasive Species Research

- Sec. 141. Short title.
- Sec. 142. Findings.
- Sec. 143. Definitions.
- Sec. 144. Coordination and implementation.
- Sec. 145. Ecological and pathway research.
- Sec. 146. Analysis.
- Sec. 147. Dissemination.
- Sec. 148. Technology development, demonstration, and verification.
- Sec. 149. Research to support the setting and implementation of ship pathway standards.
- Sec. 150. Research in systematics and taxonomy.
- Sec. 151. State programs.

Subtitle C—Invasive Species Council

- Sec. 161. Short title.
- Sec. 162. Statement of policy regarding Federal duties.
- Sec. 163. National Invasive Species Council.
- Sec. 164. Duties.
- Sec. 165. National Invasive Species Management Plan.
- Sec. 166. Invasive Species Advisory Committee.
- Sec. 167. Budget crosscut.
- Sec. 168. Definitions.
- Sec. 169. Existing Executive Order.
- Sec. 170. Authorization of appropriations.

TITLE II—HABITAT AND SPECIES

- Sec. 201. Definitions.
- Sec. 202. Identification, review, and implementation of proposals.
- Sec. 203. Goals of United States Fish and Wildlife Service programs related to Great Lakes fish and wildlife resources.
- Sec. 204. Establishment of offices.
- Sec. 205. Reports.
- Sec. 206. Authorization of appropriations.

TITLE III—COASTAL HEALTH

- Sec. 301. Technical assistance.
- Sec. 302. Sewer overflow control grants.
- Sec. 303. Water pollution control revolving loan funds.
- Sec. 304. Allotment of funds.
- Sec. 305. Authorization of appropriations.

TITLE IV—AREAS OF CONCERN

- Sec. 401. Great Lakes.

TITLE V—CLEAN WATER AUTHORITY

- Sec. 501. Definition of waters of the United States.
- Sec. 502. Conforming amendments.

TITLE VI—TOXIC SUBSTANCES

- Sec. 601. Mercury reduction grants.

TITLE VII—INDICATORS AND INFORMATION

Subtitle A—Research Program

- Sec. 701. Research reauthorizations.
- Sec. 702. Great Lakes Science Center.
- Sec. 703. Great Lakes Environmental Research Laboratory.

Subtitle B—Ocean and Coastal Observation System

- Sec. 711. Definitions.
- Sec. 712. Integrated ocean and coastal observing system.
- Sec. 713. Research, development, and education.
- Sec. 714. Interagency financing.
- Sec. 715. Application with Outer Continental Shelf Lands Act.
- Sec. 716. Authorization of appropriations.
- Sec. 717. Reporting requirement.

Subtitle C—Great Lakes Water Quality Indicators and Monitoring

- Sec. 721. Great Lakes water quality indicators and monitoring.

TITLE VIII—SUSTAINABLE DEVELOPMENT

- Sec. 801. Waterfront restoration and remediation projects.
- Sec. 802. Authority of Secretary to restore and remediate waterfront and related areas.
- Sec. 803. Authorization of appropriations.

TITLE IX—COORDINATION AND OVERSIGHT

- Sec. 901. Definitions.
- Sec. 902. Great Lakes Interagency Task Force.
- Sec. 903. Executive Committee.
- Sec. 904. Great Lakes Regional Collaboration.

1 SEC. 2. FINDINGS.

2 Congress finds that—

3 (1) the Great Lakes, with about 20 percent of
 4 the Earth’s fresh surface water, is a treasure of
 5 global significance, supporting drinking water for
 6 millions of people, providing for commerce, and
 7 recreation for people from across the Nation and
 8 around the world;

9 (2) renewed efforts and investments are critical
 10 to aid in fulfilling the goals and objectives of the

1 Great Lakes Water Quality Agreement between the
2 United States and Canada;

3 (3) in a report issued in December 2005, a
4 group of leading scientists from top institutions in
5 the Great Lakes area found that—

6 (A) the Great Lakes are on the brink of an
7 ecologic catastrophe;

8 (B) the primary stressors straining the
9 health of the Great Lakes are—

10 (i) toxic chemicals;

11 (ii) overloading of human waste and
12 urban and agricultural runoff;

13 (iii) physical changes to the shorelines
14 and wetlands;

15 (iv) invasive plant and animal species;

16 (v) changes in water patterns; and

17 (vi) overfishing;

18 (C) the deterioration of the Great Lakes
19 ecosystem is accelerating dramatically; and

20 (D) if the pattern of deterioration is not
21 reversed immediately, the damage could be ir-
22 reparable;

23 (4) as a result of the stressors described in
24 paragraph (3)(B)—

1 (A) over 1,800 beaches were closed in
2 2003;

3 (B) Lake Erie has developed a 6,300
4 square mile dead zone that forms every sum-
5 mer;

6 (C) the zebra mussels, an aquatic invasive
7 species, cause \$500,000,000 per year in eco-
8 nomic and environmental damage in the Great
9 Lakes;

10 (D) there is no appreciable natural repro-
11 duction of lake trout in the lower 4 Great
12 Lakes; and

13 (E) wildlife habitats have been destroyed,
14 which has diminished fishing, hunting, and
15 other outdoor recreation opportunities in the
16 Great Lakes;

17 (5) because of the patchwork approach to fixing
18 the problems facing the Great Lakes, the problems
19 have not only persisted in, but have also gotten
20 worse in some areas of, the Great Lakes;

21 (6) rather than dealing with 1 problem or loca-
22 tion of the Great Lakes at a time, a comprehensive
23 restoration of the system is needed to prevent the
24 Great Lakes from collapsing;

1 (7) in December 2004, work began on the
2 Great Lakes Regional Collaboration, a unique part-
3 nership that was—

4 (A) formed for the purpose of developing a
5 strategic action plan for Great Lakes restora-
6 tion; and

7 (B) composed of—

8 (i) key members from the Federal
9 Government, State and local governments,
10 and Indian tribes; and

11 (ii) other stakeholders;

12 (8) over 1,500 people throughout the Great
13 Lakes region participated in this collaborative proc-
14 ess, with participants working on 1 or more of the
15 8 strategy teams that focused on different issues af-
16 fecting the Great Lakes basin;

17 (9) the recommendations of the Great Lakes
18 Regional Collaboration, which was released on De-
19 cember 12, 2005, identify actions to address the
20 issues affecting the Great Lake basin on the Fed-
21 eral, State, local, and tribal level; and

22 (10) comprehensive restoration must be adapt-
23 ive, and ongoing efforts are needed continually to
24 implement the recommendations of the Great Lakes
25 Regional Collaboration relating to buffers, river res-

1 toration, wetlands, emerging toxic pollutants, and
2 other issues affecting the Great Lakes basin.

3 **TITLE I—INVASIVE SPECIES**
4 **PREVENTION**
5 **Subtitle A—National Aquatic**
6 **Invasive Species**

7 **SEC. 101. SHORT TITLE.**

8 This subtitle may be cited as the “National Aquatic
9 Invasive Species Act of 2006”.

10 **SEC. 102. FINDINGS.**

11 Congress finds that—

12 (1) aquatic invasive species are second only to
13 habitat destruction as a cause of permanent losses
14 in biological diversity of aquatic ecosystems of the
15 United States;

16 (2) aquatic invasive species continue to be in-
17 troduced into water of the United States at an unac-
18 ceptable rate;

19 (3) aquatic invasive species damage infrastruc-
20 ture, disrupt commerce, outcompete native species,
21 reduce biodiversity, and threaten human health;

22 (4) the direct and indirect costs of aquatic
23 invasive species to the economy of the United States
24 amount to billions of dollars per year;

1 (5) in the Great Lakes region, approximately
2 \$3,000,000,000 has been spent in the past 10 years
3 to mitigate the damage caused by a single invasive
4 species, the zebra mussel;

5 (6) wetlands suffer compound impacts from—

6 (A) terrestrial infestations (such as Nu-
7 tria);

8 (B) aquatic infestations (such as Hydrilla);

9 and

10 (C) riparian infestations (such as Purple
11 Loosestrife);

12 (7) prevention of aquatic invasive species is the
13 most environmentally sound and cost-effective man-
14 agement approach because once established, aquatic
15 invasive species are costly, and sometimes impossible
16 to control;

17 (8) to be effective, the prevention, early detec-
18 tion, and control of and rapid response to aquatic
19 invasive species should be coordinated regionally, na-
20 tionally, and internationally;

21 (9) pathway management is the most promising
22 approach to reducing unplanned introductions of
23 aquatic invasive species;

1 (10) consistent national screening criteria are
2 needed to evaluate the potential risk of nonindige-
3 nous aquatic species;

4 (11) States and regions have unique
5 vulnerabilities with respect to aquatic invasive spe-
6 cies and unique means for addressing aquatic
7 invasive species;

8 (12) a comprehensive research program which
9 monitors pathways and ecosystems to detect the es-
10 tablishment and track the spread of invasive species,
11 develop and demonstrate effective management and
12 control methods, and monitor success of prevention
13 and control efforts, is essential to accurate identi-
14 fication and management of high risk pathways; and

15 (13) it is in the interest of the United States
16 to undertake a comprehensive and thorough pro-
17 gram to research, prevent, manage, and control in-
18 troductions of aquatic species that may become
19 invasive and to coordinate that program to the ex-
20 tent possible with neighboring nations and efforts
21 globally.

22 **SEC. 103. DEFINITIONS.**

23 Section 1003 of the Nonindigenous Aquatic Nuisance
24 Prevention and Control Act of 1990 (16 U.S.C. 4702) is
25 amended to read as follows:

1 **“SEC. 1003. DEFINITIONS.**

2 “In this Act, the following definitions apply:

3 “(1) ADMINISTRATOR.—The term ‘Adminis-
4 trator’ means the Administrator of the Environ-
5 mental Protection Agency.

6 “(2) AQUATIC ECOSYSTEMS IN THE UNITED
7 STATES.—The term ‘aquatic ecosystems in the
8 United States’ means freshwater, marine, and estua-
9 rine environments (including inland waters and wet-
10 lands), located in waters of the United States.

11 “(3) ASSISTANT SECRETARY.—The term ‘As-
12 sistant Secretary’ means the Assistant Secretary of
13 the Army for Civil Works.

14 “(4) BALLAST WATER.—The term ‘ballast
15 water’ means any water (with its suspended matter)
16 used to maintain the trim and stability of a vessel.

17 “(5) COASTAL VOYAGE.—The term ‘coastal voy-
18 age’ means a voyage conducted entirely within the
19 exclusive economic zone.

20 “(6) DIRECTOR.—The term ‘Director’ means
21 the Director of the United States Fish and Wildlife
22 Service.

23 “(7) ENVIRONMENTALLY SOUND.—The term
24 ‘environmentally sound’, when used in reference to
25 any activity, refers to an activity that prevents or re-
26 duces introductions, or controls infestations, of

1 aquatic invasive species in a manner that minimizes
2 adverse effects on—

3 “(A) the structure and function of an eco-
4 system; and

5 “(B) nontarget organisms and ecosystems.

6 “(8) EXCLUSIVE ECONOMIC ZONE.—The term
7 ‘exclusive economic zone’ means the area comprised
8 of—

9 “(A) the Exclusive Economic Zone of the
10 United States established by Proclamation
11 Number 5030, dated March 10, 1983; and

12 “(B) the equivalent zones of Canada and
13 Mexico.

14 “(9) GREAT LAKE.—The term ‘Great Lake’
15 means—

16 “(A) Lake Erie;

17 “(B) Lake Huron (including Lake Saint
18 Clair);

19 “(C) Lake Michigan;

20 “(D) Lake Ontario;

21 “(E) Lake Superior;

22 “(F) the connecting channels of those
23 Lakes, including—

24 “(i) the Saint Mary’s River;

25 “(ii) the Saint Clair River;

1 “(iii) the Detroit River;
2 “(iv) the Niagara River; and
3 “(v) the Saint Lawrence River to the
4 Canadian border; and
5 “(G) any other body of water located with-
6 in the drainage basin of a Lake, River, or con-
7 necting channel described in any of subpara-
8 graphs (A) through (F).

9 “(10) GREAT LAKES REGION.—The term ‘Great
10 Lakes region’ means the region comprised of the
11 States of Illinois, Indiana, Michigan, Minnesota,
12 New York, Ohio, Pennsylvania, and Wisconsin.

13 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
14 has the meaning given the term in section 4 of the
15 Indian Self-Determination and Education Assistance
16 Act (25 U.S.C. 450b).

17 “(12) INTERBASIN WATERWAY.—The term
18 ‘interbasin waterway’ means a waterway that con-
19 nects 2 distinct water basins.

20 “(13) INTERNATIONAL JOINT COMMISSION.—
21 The term ‘International Joint Commission’ means
22 the commission established by article VII of the
23 Treaty relating to boundary waters and questions
24 arising along the boundary between the United

1 States and Canada, signed at Washington on Janu-
2 ary 11, 1909 (36 Stat. 2448).

3 “(14) INTRODUCTION.—The term ‘introduction’
4 means the transfer of an organism to an ecosystem
5 outside the historic range of the species of which the
6 organism is a member.

7 “(15) INVASION.—The term ‘invasion’ means
8 an infestation of an aquatic invasive species.

9 “(16) INVASIVE SPECIES.—The term ‘invasive
10 species’ means a nonindigenous species the introduc-
11 tion of which into an ecosystem may cause harm to
12 the economy, environment, human health, recreation,
13 or public welfare.

14 “(17) INVASIVE SPECIES COUNCIL.—The term
15 ‘Invasive Species Council’ means the interagency
16 council established by section 3 of Executive Order
17 No. 13112 (42 U.S.C. 4321 note).

18 “(18) NONINDIGENOUS SPECIES.—The term
19 ‘nonindigenous species’ means any species in an eco-
20 system beyond its historic range.

21 “(19) SPECIES IN TRADE.—The term ‘species
22 in trade’ means a species that has a documented his-
23 tory of being commercially imported into the United
24 States in the period beginning on January 1, 1990,
25 and ending on January 1, 2002.

1 “(20) ORGANISM TRANSFER.—The term ‘orga-
2 nism transfer’ means the movement of an organism
3 of any species from one ecosystem to another eco-
4 system outside the historic range of the species.

5 “(21) PATHWAY.—The term ‘pathway’ means
6 one or more vectors by which an invasive species is
7 transferred from one ecosystem to another.

8 “(22) PLANNED IMPORTATION.—The term
9 ‘planned importation’ means the purposeful move-
10 ment of one or more nonindigenous organisms for
11 use in the territorial limits of the United States.

12 “(23) REGIONAL PANEL.—The term ‘regional
13 panel’ means a panel convened in accordance with
14 section 1203.

15 “(24) SECRETARY.—The term ‘Secretary’
16 means the Secretary of Homeland Security.

17 “(25) SPECIES.—The term ‘species’ means any
18 fundamental category of taxonomic classification, or
19 any viable biological material, ranking below a genus
20 or subgenus.

21 “(26) TASK FORCE.—The term ‘Task Force’
22 means the Aquatic Invasive Species Task Force es-
23 tablished by section 1201(a).

24 “(27) TERRITORIAL SEA.—The term ‘territorial
25 sea’ means the belt of the sea measured from the

1 baseline of the United States determined in accord-
2 ance with international law, as set forth in Presi-
3 dential Proclamation Number 5928, dated December
4 27, 1988.

5 “(28) TREATMENT.—The term ‘treatment’
6 means a mechanical, physical, chemical, biological,
7 or other process or method of killing, removing, or
8 rendering inviable, organisms.

9 “(29) TYPE APPROVAL.—The term ‘type ap-
10 proval’ means an approval procedure under which a
11 type of system is initially certified as meeting a
12 standard established by law (including a regulation)
13 for a particular application if operated correctly.

14 “(30) UNDER SECRETARY.—The term ‘Under
15 Secretary’ means the Under Secretary of Commerce
16 for Oceans and Atmosphere.

17 “(31) UNDESIRABLE IMPACT.—The term ‘unde-
18 sirable impact’ means economic, human health, aes-
19 thetic, or environmental degradation that is not nec-
20 essary for, and is not clearly outweighed by, public
21 health, environmental, or welfare benefits.

22 “(32) WATERS OF THE UNITED STATES.—

23 “(A) IN GENERAL.—The term ‘waters of
24 the United States’ means the navigable waters
25 and territorial sea of the United States.

1 “(B) INCLUSION.—The term ‘waters of the
2 United States’ includes the Great Lakes.”.

3 **CHAPTER 1—PREVENTION OF INTRODUC-**
4 **TION OF AQUATIC INVASIVE SPECIES**
5 **INTO WATERS OF THE UNITED STATES**
6 **BY VESSELS**

7 **SEC. 104. VESSEL PATHWAY REQUIREMENTS.**

8 (a) REQUIREMENTS FOR VESSELS OPERATING IN
9 WATERS OF THE UNITED STATES.—Section 1101 of the
10 Nonindigenous Aquatic Nuisance Prevention and Control
11 Act of 1990 (16 U.S.C. 4711) is amended by striking sub-
12 section (a) and inserting the following:

13 “(a) REQUIREMENTS FOR ALL VESSELS OPERATING
14 IN WATERS OF THE UNITED STATES.—

15 “(1) INVASIVE SPECIES MANAGEMENT PLAN.—

16 “(A) IN GENERAL.—Effective beginning on
17 the date that is 180 days after the issuance of
18 guidelines pursuant to subparagraph (D) and
19 the promulgation of guidelines or regulations
20 under this section, each vessel that is equipped
21 with ballast, and other towed vessels and struc-
22 tures, operating in waters of the United States
23 shall have in effect, and have available for in-
24 spection, an aquatic invasive species manage-
25 ment plan that prescribes safe and effective

1 means by which the master of the vessel shall
2 minimize introductions and transfers of invasive
3 species by any part of the vessel, pursuant to
4 the guidelines or regulations applicable to that
5 vessel.

6 “(B) SPECIFICITY.—The management plan
7 shall be specific to the vessel (or group of ves-
8 sels with characteristics similar to that of the
9 vessel, as determined by the Secretary).

10 “(C) REQUIREMENTS.—The management
11 plan shall include, at a minimum, such informa-
12 tion as is requested by the Secretary pursuant
13 to subparagraph (D), including—

14 “(i) operational requirements to safely
15 and effectively comply with the ballast
16 water management requirements under
17 paragraph (4);

18 “(ii) operational requirements to safe-
19 ly and effectively carry out any actions
20 consistent with rapid response action re-
21 quired by States and approved by the Sec-
22 retary under section 1211;

23 “(iii) other requirements specified in
24 guidelines adopted by the International
25 Maritime Organization;

1 “(iv) a description of all reporting re-
2 quirements and a copy of each form nec-
3 essary to meet those requirements;

4 “(v) the position of the officer respon-
5 sible for implementation of ballast water
6 management and reporting procedures on
7 board;

8 “(vi) documents relevant to any bal-
9 last water management equipment or pro-
10 cedures;

11 “(vii) a description of the location of
12 access points for sampling ballast or sedi-
13 ments pursuant to paragraph (3)(B)(vi);

14 “(viii) a description of requirements
15 relating to compliance with any approved
16 rapid response strategy relevant to the voy-
17 age of the vessel;

18 “(ix) a contingency strategy applicable
19 under subsection (k), if appropriate; and

20 “(x) such requirements described in
21 subsection (e) as are applicable to the ves-
22 sel.

23 “(D) GUIDELINES.—Not later than 18
24 months after the date of enactment of the Na-
25 tional Aquatic Invasive Species Act of 2005, the

1 Secretary shall issue final guidelines for the de-
2 velopment of invasive species management
3 plans, including guidelines that—

4 “(i) identify types of vessels for which
5 plans are required;

6 “(ii) establish processes for updating
7 and revising the plans; and

8 “(iii) establish criteria for compliance
9 with this subsection.

10 “(2) RECORDS.—The master of a vessel shall—

11 “(A) maintain records of all ballast oper-
12 ations, for such period of time and including
13 such information as the Secretary may specify;

14 “(B) permit inspection of the records by
15 representatives of the Secretary and of the
16 State in which the vessel has entered a port;
17 and

18 “(C) transmit records to the National Bal-
19 last Information Clearinghouse established
20 under section 1102(f).

21 “(3) BEST MANAGEMENT PRACTICES.—

22 “(A) IN GENERAL.—Not later than 18
23 months after the date of enactment of the Na-
24 tional Aquatic Invasive Species Act of 2005, the
25 Secretary shall issue guidelines on best manage-

1 ment practices to eliminate or minimize and
2 monitor organism transfer by vessels.

3 “(B) PRACTICES TO BE INCLUDED.—The
4 best management practices shall include, but
5 not be limited to—

6 “(i) sediment management in trans-
7 oceanic vessels;

8 “(ii) minimization of ballast water up-
9 take in areas where there is a greater risk
10 of harmful organisms entering ballast
11 tanks (such as areas with toxic algal
12 blooms or known outbreaks of aquatic
13 invasive species);

14 “(iii) avoidance of unnecessary dis-
15 charge of ballast water in a port that was
16 taken up in another port;

17 “(iv) to the maximum extent prac-
18 ticable, collection and the proper disposal
19 of debris from the cleaning of the hull;

20 “(v) proper use of antifouling coating;
21 and

22 “(vi) provision of access points in bal-
23 last piping for sampling of ballast intake
24 and discharge.

25 “(4) BALLAST WATER MANAGEMENT.—

1 “(A) IN GENERAL.—Each vessel equipped
2 with a ballast water tank that enters a United
3 States port, except for a vessel subject to sub-
4 paragraph (B) and subsection (c), shall comply
5 with the standards described in paragraphs (1)
6 and (2) of subsection (b) and the regulations
7 promulgated under subsection (e) relating to
8 ballast water management.

9 “(B) EXCEPTIONS.—

10 “(i) VESSELS OPERATING ENTIRELY
11 WITHIN THE EXCLUSIVE ECONOMIC
12 ZONE.—A vessel equipped with a ballast
13 water tank that operates entirely within
14 the exclusive economic zone shall not be re-
15 quired to comply with the standard de-
16 scribed in subsection (b)(1).

17 “(ii) VESSELS THAT OPERATE EXCLU-
18 SIVELY IN AN ENCLOSED AQUATIC ECO-
19 SYSTEM.—

20 “(I) IN GENERAL.—A vessel
21 equipped with ballast tanks and that
22 operates exclusively in the upper 4
23 Great Lakes, or in another enclosed
24 aquatic ecosystem in which the poten-
25 tial for movement of organisms by

1 natural and anthropogenic means is
2 not significantly altered by the move-
3 ment of the vessel, is not required to
4 comply with the standards described
5 in paragraphs (1) and (2) of sub-
6 section (b).

7 “(II) ADDITIONAL ENCLOSED
8 AQUATIC ECOSYSTEMS.—The Admin-
9 istrator and Under Secretary, in con-
10 sultation with regional panels of the
11 Task Force, may determine the other
12 enclosed aquatic ecosystems that are
13 covered by subclause (I).”.

14 (b) BALLAST WATER MANAGEMENT STANDARDS
15 AND CERTIFICATION PROCEDURES.—Section 1101 of the
16 Nonindigenous Aquatic Nuisance Species Prevention and
17 Control Act of 1990 (16 U.S.C. 4711) is further amend-
18 ed—

19 (1) by striking subsections (b) through (f) and
20 subsection (h); and

21 (2) by inserting after subsection (a) the fol-
22 lowing:

23 “(b) BALLAST WATER MANAGEMENT STANDARDS
24 AND CERTIFICATION PROCEDURES.—

25 “(1) INTERIM STANDARDS.—

1 “(A) IN GENERAL.—Not later than 18
2 months after the date of enactment of the Na-
3 tional Aquatic Invasive Species Act of 2005, the
4 Secretary, with the concurrence of the Adminis-
5 trator and in consultation with the Task Force,
6 shall promulgate final regulations establishing
7 interim standards indicating acceptable—

8 “(i) operational performance for bal-
9 last water exchange (including contingency
10 procedures in instances in which a safety
11 exemption is used pursuant to subsection
12 (k)); and

13 “(ii) biological effectiveness of ballast
14 water treatment systems (including on-
15 shore facilities and facilities on board ves-
16 sels).

17 “(B) REQUIREMENTS.—

18 “(i) BALLAST WATER EXCHANGE.—
19 The interim standard for ballast water ex-
20 change described in subparagraph (A) shall
21 require—

22 “(I) at least 1 empty-and-refill
23 cycle on the high sea or in an alter-
24 native exchange area designated by
25 the Secretary, of each ballast tank

1 that contains ballast water to be dis-
2 charged into waters of the United
3 States;

4 “(II) in a case in which the mas-
5 ter of a vessel determines that compli-
6 ance with subclause (I) is impracti-
7 cable, a sufficient number of flow-
8 through exchanges of ballast water, on
9 the high sea or in an alternative ex-
10 change area designated by the Sec-
11 retary, to achieve replacement of at
12 least 95 percent of ballast water in
13 ballast tanks of the vessel, as deter-
14 mined by a certification dye study
15 conducted or model developed in ac-
16 cordance with protocols developed
17 under paragraph (3)(B)(i) and re-
18 corded in the management plan of a
19 vessel pursuant to subsection
20 (a)(1)(C)(i); and

21 “(III) an approved contingency
22 procedure using best practicable tech-
23 nology or practices in instances in
24 which a ballast water exchange is not

1 undertaken pursuant to subsection
2 (k).

3 “(ii) BALLAST SYSTEM DESIGN AND
4 WATER TREATMENT SYSTEMS.—The in-
5 terim standard for a ballast water system
6 design and treatment system described in
7 subparagraph (A) shall require that at
8 least 95 percent of the live aquatic
9 vertebrates, invertebrates, phytoplankton,
10 and macroalgae, respectively, in ballast
11 water taken in by a vessel or class of ves-
12 sels be killed or removed from ballast dis-
13 charge as determined by the qualified type
14 approval process promulgated under para-
15 graph (3)(B)(ii).

16 “(iii) CRITERIA; PERIOD OF EFFEC-
17 TIVENESS.—The interim standards de-
18 scribed in clauses (i) and (ii) shall—

19 “(I) meet occupational safety and
20 environmental soundness criteria de-
21 scribed in paragraph (7); and

22 “(II) cease to apply on the effec-
23 tive date of final standards developed
24 pursuant to paragraph (2).

25 “(2) FINAL STANDARDS.—

1 “(A) IN GENERAL.—Not later than 4 years
2 after the date of enactment of the National
3 Aquatic Invasive Species Act of 2005, the Ad-
4 ministrator, in consultation with the Task
5 Force and with the concurrence of the Sec-
6 retary, shall promulgate final standards for bal-
7 last water discharge and other vessel operations
8 determined to pose a significant risk to the en-
9 vironment through the introduction of non-
10 indigenous species.

11 “(B) REQUIREMENTS.—The final stand-
12 ards shall—

13 “(i) result from application of the best
14 available technology for—

15 “(I) the applicable category or
16 class of vessels; and

17 “(II) the new source or existing
18 source status;

19 “(ii) have the goal of eliminating the
20 risk of introduction into waters of the
21 United States by vessels of nonindigenous
22 species, including plant, animal, and
23 human pathogens;

24 “(iii) consider findings of scientific
25 and policy research; and

1 “(iv) be measurable.

2 “(3) CERTIFICATION OF TREATMENTS OR PRAC-
3 TICES; ENFORCEMENT.—

4 “(A) IN GENERAL.—Not later than the
5 date on which interim standards are promul-
6 gated under paragraph (1) and final standards
7 are promulgated under paragraph (2), the Sec-
8 retary shall, with the concurrence of the Admin-
9 istrator, promulgate regulations for—

10 “(i) the certification of treatments or
11 practices that comply with the standards;
12 and

13 “(ii) ongoing enforcement of the use
14 of the treatments or practices.

15 “(B) CERTIFICATION UNDER INTERIM
16 STANDARDS.—The certification of treatments
17 and practices in compliance with the interim
18 standard promulgated pursuant to paragraph
19 (1) shall be based on a qualified type approval
20 process, including—

21 “(i) protocol for ballast water ex-
22 change involving dye studies or models de-
23 tailing flow dynamics of vessels described
24 in paragraph (1)(B)(i)(II); and

1 “(ii) protocol for qualified type ap-
2 proval of ballast water treatment systems
3 for the interim standard described in para-
4 graph (1) that—

5 “(I) is capable of determining the
6 extent to which a ballast water treat-
7 ment system complies with applicable
8 standards, including limitations on
9 that compliance caused by—

10 “(aa) biological, chemical, or
11 physical conditions of water
12 taken into ballast; and

13 “(bb) conditions encountered
14 during a voyage;

15 “(II) is capable of determining
16 the extent to which a ballast water
17 treatment system—

18 “(aa) is environmentally
19 sound, based on criteria promul-
20 gated by the Administrator under
21 paragraph (7)(A); and

22 “(bb) is safe for vessel and
23 crew;

24 “(III) may be used in estimating
25 the expected useful life of the ballast

1 water treatment system, as deter-
2 mined on the basis of voyage patterns
3 and normal use conditions;

4 “(IV) includes a shipboard test-
5 ing component, and may include a
6 shore-based testing component;

7 “(V) provides for appropriate
8 monitoring; and

9 “(VI) is cost effective.

10 “(C) CERTIFICATION UNDER FINAL
11 STANDARDS.—The certification of treatments in
12 compliance with the final standards issued pur-
13 suant to paragraph (2) shall—

14 “(i) apply to all methods of ballast
15 water management and system design, in-
16 cluding—

17 “(I) ballast water exchange;

18 “(II) ballast water treatment sys-
19 tems; and

20 “(III) other vessel operations de-
21 termined to pose a significant risk to
22 the environment through the introduc-
23 tion of nonindigenous organisms;

1 “(ii) be reviewed and, as appropriate,
2 revised not less often than every 3 years
3 pursuant to subsection (f)(1);

4 “(iii) meet occupational safety and en-
5 vironmental soundness criteria described in
6 paragraph (7); and

7 “(iv) apply beginning not later than
8 October 1, 2011.

9 “(4) EXPERIMENTAL APPROVAL FOR BALLAST
10 WATER TREATMENT.—

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), if, before the date on which the Sec-
13 retary promulgates interim ballast water man-
14 agement standards under paragraph (1), an
15 owner or operator of a vessel seeks to conduct
16 a treatment of ballast water—

17 “(i) the owner or operator shall apply
18 to the Secretary for experimental approval
19 of the treatment; and

20 “(ii) the Secretary shall approve the
21 treatment if—

22 “(I) the owner or operator pro-
23 vides to the Secretary independently
24 peer-reviewed, pilot-scale information

1 relating to the effectiveness and envi-
2 ronmental soundness of the treatment;

3 “(II) the Secretary and the Ad-
4 ministrator, in consultation with the
5 Task Force (including relevant re-
6 gional panels, and the Prevention
7 Committee, of the Task Force), deter-
8 mine that the technology to be used
9 for the treatment has significant po-
10 tential to kill or remove at least 95
11 percent of the live aquatic vertebrates,
12 invertebrates, phytoplankton, and
13 macro algae, respectively, in ballast
14 water taken in by the class of vessel
15 for which the treatment is sought to
16 be conducted; and

17 “(III) the Administrator deter-
18 mines that the treatment meets envi-
19 ronmental regulations.

20 “(B) LIMITATIONS.—

21 “(i) PERIOD OF TESTING.—Testing of
22 the treatment system approved under this
23 section may cease prior to the termination
24 of the approval period described in clause
25 (ii).

1 “(ii) PERIOD OF APPROVAL.—Ap-
2 proval under subparagraph (A) shall be
3 granted for—

4 “(I) a period of 10 years or the
5 expected useful life of the treatment
6 system, whichever is earlier; or

7 “(II) until such time as the Sec-
8 retary or Administrator (as appro-
9 priate) determine that (based on
10 available information, including infor-
11 mation developed pursuant to clause
12 (iii)) there exists a serious deficiency
13 in performance or environmental
14 soundness of the system relative to
15 anticipated performance or environ-
16 mental soundness.

17 “(iii) INFORMATION.—As a condition
18 of receiving experimental approval for a
19 treatment under subparagraph (A)(ii), the
20 owner or operator of a vessel shall agree to
21 collect and report such information regard-
22 ing the operational and biological effective-
23 ness of the treatment through sampling of
24 the intake and discharge ballast as the
25 Secretary may request.

1 “(iv) RENEWAL.—An experimental
2 approval may be renewed pursuant to
3 paragraph (7)(B).

4 “(5) INCENTIVES FOR USE OF TREATMENT SYS-
5 TEMS.—

6 “(A) IN GENERAL.—The Secretary, the
7 Secretary of Transportation, and the Adminis-
8 trator shall assist owners or operators of vessels
9 that seek to obtain experimental or interim ap-
10 proval for installation of ballast water treat-
11 ment systems, including through providing
12 guidance on—

13 “(i) a sampling protocol and test pro-
14 gram for cost-effective treatment evalua-
15 tion;

16 “(ii) sources of sampling equipment
17 and field biological expertise; and

18 “(iii) examples of shipboard evalua-
19 tion studies.

20 “(B) SELECTION OF TECHNOLOGIES AND
21 PRACTICES.—In selecting technologies and
22 practices for shipboard demonstration under
23 section 1104(b), the Secretary of the Interior
24 and the Secretary of Commerce shall give pri-
25 ority consideration to technologies and practices

1 that have received or are in the process of re-
2 ceiving approval under paragraphs (1) and (4)
3 of this subsection.

4 “(C) ANNUAL SUMMARIES.—The Secretary
5 shall annually summarize, and make available
6 to interested parties, all available information
7 on the performance of technologies proposed for
8 ballast treatment to facilitate the application
9 process for experimental approval for ballast
10 water treatment under paragraph (4).

11 “(6) APPLICATION FOR APPROVAL.—

12 “(A) IN GENERAL.—The Secretary and the
13 Administrator may approve only such applica-
14 tions for qualified type approval of the ballast
15 water treatment system that are in such form
16 and contain such information as the Secretary
17 and Administrator may require.

18 “(B) APPROVAL AND DISAPPROVAL.—

19 “(i) IN GENERAL.—On receipt of an
20 application under subparagraph (A)—

21 “(I) the Administrator shall, not
22 later than 90 days after the date of
23 receipt of the application—

24 “(aa) review the application
25 for compliance and consistency

1 with environmental soundness
2 criteria promulgated under para-
3 graph (7)(A); and

4 “(bb) approve those ballast
5 water treatment systems that
6 meet those criteria; and

7 “(II) the Secretary, in consulta-
8 tion with the Task Force, shall, not
9 later than 180 days after the date of
10 receipt of the application—

11 “(aa) determine whether the
12 ballast water treatment system
13 covered by the application meets
14 the requirements of this sub-
15 section, as appropriate;

16 “(bb) approve or disapprove
17 the application; and

18 “(cc) provide the applicant
19 written notice of approval or dis-
20 approval.

21 “(ii) LIMITATIONS.—An application
22 approved under clause (i) shall—

23 “(I) be qualified with any limita-
24 tions relating to voyage pattern, dura-
25 tion, or any other characteristic that

1 may affect the effectiveness or envi-
2 ronmental soundness of the ballast
3 water treatment system covered by
4 the application, as determined by the
5 Secretary in consultation with the Ad-
6 ministrator;

7 “(II) be applicable to a specific
8 ship or group of ships, as determined
9 by the Secretary;

10 “(III) be valid for the lesser of—

11 “(aa) a period of 10 years
12 or the expected useful life of the
13 treatment system, whichever is
14 earlier; or

15 “(bb) until such time as the
16 Secretary or Administrator (as
17 appropriate) determines that
18 (based on available information,
19 including information developed
20 pursuant to paragraph
21 (4)(B)(iii)) there exists a serious
22 deficiency in performance or envi-
23 ronmental soundness of the sys-
24 tem relative to anticipated per-

1 formance or environmental
2 soundness; and

3 “(IV) be renewed if—

4 “(aa) the Secretary deter-
5 mines that the ballast water
6 treatment system remains in
7 compliance with applicable stand-
8 ards as of the date of application
9 for renewal; or

10 “(bb) the remaining useful
11 life of the vessel is less than 10
12 years.

13 “(7) ENVIRONMENTAL SOUNDNESS CRITERIA
14 FOR BALLAST TREATMENTS.—

15 “(A) IN GENERAL.—The Administrator
16 shall include in criteria promulgated under sec-
17 tion 1202(k)(1)(A) specific criteria—

18 “(i) to ensure environmental sound-
19 ness of ballast treatment systems; and

20 “(ii) to grant environmental sound-
21 ness exceptions under subparagraph (B).

22 “(B) EXCEPTIONS.—

23 “(i) IN GENERAL.—In reviewing appli-
24 cations under paragraph (6)(B)(i)(I) in an
25 emergency situation to achieve reductions

1 in significant and acute risk of transfers of
2 invasive species by vessels, the Secretary
3 and the Administrator may jointly deter-
4 mine to make an exception to criteria de-
5 scribed in subparagraph (A)(i).

6 “(ii) QUALIFICATION OF APPROV-
7 ALS.—To be eligible for an exception under
8 clause (i), an approval under paragraph
9 (6)(B)(i)(I) shall be qualified under para-
10 graph (6)(B)(ii).

11 “(8) PENALTIES.—Paragraphs (1) and (2) of
12 subsection (g) shall apply to a violation of a regula-
13 tion promulgated under this subsection.”.

14 **SEC. 105. REQUIREMENTS FOR NEW VESSELS.**

15 Section 1101 of the Nonindigenous Aquatic Nuisance
16 Prevention and Control Act of 1990 (16 U.S.C. 4711) is
17 further amended by inserting after subsection (b) the fol-
18 lowing:

19 “(c) DESIGN FEATURES AND TREATMENT SYSTEMS
20 FOR NEW VESSELS.—A vessel of which construction be-
21 gins on or after January 1, 2006, shall be equipped with
22 design features and ballast water treatment systems that
23 meet, at a minimum—

24 “(1) the interim standards described in sub-
25 section (b)(1)(B)(ii); or

1 “(2) on promulgation of final standards pursu-
2 ant to subsection (b)(2)(A), such final standard as
3 is applicable to the vessel.”.

4 **SEC. 106. GREAT LAKES PROGRAM.**

5 Section 1101 of the Nonindigenous Aquatic Nuisance
6 Prevention and Control Act of 1990 (16 U.S.C. 4711) is
7 further amended by inserting after subsection (c) the fol-
8 lowing:

9 “(d) GREAT LAKES PROGRAM.—

10 “(1) CONTINUITY OF REGULATIONS AND GREAT
11 LAKES PROGRAM.—

12 “(A) REGULATIONS.—Regulations promul-
13 gated under subsection (b) of this section, as in
14 effect immediately before the enactment of the
15 National Aquatic Invasive Species Act of 2005,
16 shall remain in effect until such time as the
17 regulations are revised or replaced by regula-
18 tions promulgated pursuant to the National
19 Aquatic Invasive Species Act of 2005.

20 “(B) RELATIONSHIP TO OTHER PRO-
21 GRAMS.—Upon implementation of a national
22 mandatory ballast management program that is
23 at least as comprehensive as the Great Lakes
24 program established under subsection (b) of
25 this section, as in effect immediately before the

1 enactment of the National Aquatic Invasive
2 Species Act of 2005, including regulations
3 under that section (as determined by the Sec-
4 retary, in consultation with the Governors of
5 Great Lakes States)—

6 “(i) the program regulating vessels
7 and ballast water in the Great Lakes
8 under this section shall terminate; and

9 “(ii) the national program shall apply
10 to such vessels and ballast water.

11 “(2) REVIEW AND REVISION.—

12 “(A) IN GENERAL.—Not later than 18
13 months after the date of enactment of the Na-
14 tional Aquatic Invasive Species Act of 2005, the
15 Secretary shall—

16 “(i) review and revise regulations pro-
17 mulgated under this subsection; and

18 “(ii) promulgate the revised regula-
19 tions.

20 “(B) CONTENTS.—The revised regulations
21 shall include at a minimum requirements under
22 subsections (a) and (b) of this section.”.

23 **SEC. 107. AUTHORITY OF SECRETARY; REGULATIONS.**

24 Section 1101 of the Nonindigenous Aquatic Nuisance
25 Prevention and Control Act of 1990 (16 U.S.C. 4711) is

1 further amended by inserting after subsection (d) the fol-
2 lowing:

3 “(e) AUTHORITY OF SECRETARY; REGULATIONS.—

4 “(1) IN GENERAL.—Not later than 18 months
5 after the date of enactment of the National Aquatic
6 Invasive Species Act of 2005, the Secretary shall
7 promulgate regulations to implement this section.

8 “(2) PROGRAM COMPONENTS.—

9 “(A) IN GENERAL.—In carrying out para-
10 graph (1), the Secretary shall promulgate a
11 separate set of regulations for—

12 “(i) ships that enter the Great Lakes
13 after operating outside the exclusive eco-
14 nomic zone; and

15 “(ii) ships that enter United States
16 ports after operating outside the exclusive
17 economic zone, excluding United States
18 ports on the Great Lakes.

19 “(B) DURATION.—Regulations promul-
20 gated under subparagraph (A)(i) shall remain
21 in effect until the Great Lakes program is ter-
22 minated pursuant to subsection (d)(1)(B).

23 “(3) REQUIREMENTS.—The regulations promul-
24 gated under paragraphs (1) shall—

1 “(A) be consistent with interim and final
2 standards issued under paragraphs (1) and (2)
3 of subsection (b), as applicable;

4 “(B) apply to all vessels to which the re-
5 spective standards apply;

6 “(C) protect the safety of—

7 “(i) each vessel; and

8 “(ii) the crew and passengers of each
9 vessel;

10 “(D) require a vessel described in para-
11 graph (1)—

12 “(i) to carry out the exchange of bal-
13 last water of the vessel in waters beyond
14 the exclusive economic zone in accordance
15 with the standards and certification proce-
16 dures promulgated under subsection (b);

17 “(ii) in a case in which the master of
18 the vessel determines that compliance with
19 clause (i) is impracticable, to exchange the
20 ballast water of the vessel in other waters
21 in which the exchange does not pose a
22 threat of invasion or spread of nonindige-
23 nous species in waters of the United
24 States, as designated by the Secretary; or

1 “(iii) to use environmentally sound al-
2 ternative ballast water management meth-
3 ods, including modification of the vessel
4 ballast water tanks and intake systems, if
5 the Secretary determines that such alter-
6 native methods are in accordance with
7 standards and certification procedures pro-
8 mulgated under subsection (b);

9 “(E) provide for sampling of ballast intake
10 and discharge flows through ballast piping to
11 monitor compliance with the regulations;

12 “(F) take into consideration—

13 “(i) vessel types;

14 “(ii) variations in the ecological condi-
15 tions of waters and coastal areas of the
16 United States; and

17 “(iii) different operating conditions;

18 and

19 “(G) be based on the best scientific infor-
20 mation available.

21 “(4) EDUCATION AND TECHNICAL ASSIST-
22 ANCE.—The Secretary may carry out education and
23 technical assistance programs and other measures to
24 promote compliance with the regulations promul-
25 gated under this subsection.

1 “(f) PERIODIC REVIEW AND REVISION OF REGULA-
2 TIONS.—

3 “(1) IN GENERAL.—Not later than 3 years
4 after the date of enactment of the National Aquatic
5 Invasive Species Act of 2005, and not less often
6 than every 3 years thereafter, the Secretary shall
7 (with the concurrence of the Administrator, based on
8 recommendations of the Task Force and information
9 collected and analyzed by relevant research, and in
10 accordance with criteria developed by the Task
11 Force under paragraph (3))—

12 “(A) assess the compliance by vessels with
13 regulations promulgated under this section;

14 “(B) assess the effectiveness of the regula-
15 tions referred to in subparagraph (A) in reduc-
16 ing the introduction and spread of aquatic
17 invasive species by vessels; and

18 “(C) as necessary, on the basis of the best
19 scientific information available—

20 “(i) revise the regulations referred to
21 in subparagraph (A); and

22 “(ii) promulgate additional regula-
23 tions.

24 “(2) SPECIAL REVIEW AND REVISION.—Not
25 later than 90 days after the date on which the Task

1 Force makes a request to the Secretary for a special
2 review and revision of the program, the Secretary
3 shall (with the concurrence of the Administrator)—

4 “(A) conduct a special review of regula-
5 tions in accordance with paragraph (1); and

6 “(B) as necessary, in the same manner as
7 provided under paragraph (1)(C)—

8 “(i) revise those guidelines; or

9 “(ii) promulgate additional regula-
10 tions.

11 “(3) CRITERIA FOR EFFECTIVENESS.—Not
12 later than 1 year after the date of enactment of the
13 National Aquatic Invasive Species Act of 2005, and
14 every 3 years thereafter, the Task Force shall sub-
15 mit to the Secretary criteria for determining the
16 adequacy and effectiveness of all regulations promul-
17 gated under this section.”.

18 **SEC. 108. SANCTIONS.**

19 Section 1101(g) of the Nonindigenous Aquatic Nui-
20 sance Prevention and Control Act of 1990 (16 U.S.C.
21 1101(g)) is amended to read as follows:

22 “(g) SANCTIONS.—

23 “(1) CIVIL PENALTIES.—

24 “(A) IN GENERAL.—Any person that vio-
25 lates a regulation promulgated under this sec-

1 tion shall be liable for a civil penalty in an
2 amount not to exceed \$50,000.

3 “(B) SEPARATE VIOLATIONS.—Each day
4 of a continuing violation constitutes a separate
5 violation.

6 “(C) LIABILITY OF VESSELS.—A vessel op-
7 erated in violation of a regulation promulgated
8 under this Act shall be liable in rem for any
9 civil penalty assessed under this subsection for
10 that violation.

11 “(2) CRIMINAL PENALTIES.—Any person that
12 knowingly violates the regulations promulgated
13 under subsection (b) is guilty of a class C felony.

14 “(3) REVOCATION OF CLEARANCE.—On request
15 of the Secretary, the Secretary of the Treasury shall
16 withhold or revoke the clearance of a vessel required
17 by section 4197 of the Revised Statutes (46 App.
18 U.S.C. 91), if the owner or operator of that vessel
19 is in violation of the regulations promulgated under
20 subsection (b).

21 “(4) EXCEPTION TO SANCTIONS.—This sub-
22 section does not apply to a failure to exchange bal-
23 last water if—

24 “(A) the master of a vessel, acting in good
25 faith, decides that the exchange of ballast water

1 will threaten the safety or stability of the vessel
2 or the crew or passengers of the vessel; and

3 “(B) the vessel complies with—

4 “(i) recordkeeping requirements of
5 this title;

6 “(ii) contingency requirements of sec-
7 tion 1211; and

8 “(iii) reporting requirements of this
9 title.”.

10 **SEC. 109. PROGRAM COORDINATION.**

11 Section 1101 of the Nonindigenous Aquatic Nuisance
12 Prevention and Control Act of 1990 (16 U.S.C. 1101) is
13 further amended by striking subsections (h), (i), and (j)
14 and inserting the following:

15 “(h) COORDINATION WITH OTHER AGENCIES.—The
16 Secretary is encouraged to use (with consent) the exper-
17 tise, facilities, members, or personnel of, appropriate Fed-
18 eral and State agencies and organizations that have rou-
19 tine contact with vessels, as determined by the Secretary.

20 “(i) CONSULTATION WITH CANADA, MEXICO, AND
21 OTHER FOREIGN GOVERNMENTS.—In developing the
22 guidelines issued and regulations promulgated under this
23 section, the Secretary is encouraged to consult with the
24 Government of Canada, the Government of Mexico, and
25 any other government of a foreign country that the Sec-

1 retary, in consultation with the Task Force, determines
2 to be necessary to develop and implement an effective
3 international program for preventing the unintentional in-
4 troduction and spread of nonindigenous species.

5 “(j) INTERNATIONAL COOPERATION.—The Sec-
6 retary, in cooperation with the International Maritime Or-
7 ganization of the United Nations and the Commission on
8 Environmental Cooperation established pursuant to the
9 North American Free Trade Agreement, is encouraged to
10 enter into negotiations with the governments of foreign
11 countries to develop and implement an effective inter-
12 national program for preventing the unintentional intro-
13 duction and spread of nonindigenous species.”.

14 **SEC. 110. VESSEL SAFETY.**

15 Section 1101(k) of the Nonindigenous Aquatic Nui-
16 sance Prevention and Control Act of 1990 (16 U.S.C.
17 1101(k)) is amended to read as follows:

18 “(k) SAFETY EXEMPTION.—

19 “(1) MASTER DISCRETION.—The Master of a
20 vessel is not required to conduct a ballast water ex-
21 change if the Master determines that the exchange
22 would threaten the safety or stability of the vessel,
23 or the crew or passengers of the vessel, because of
24 adverse weather, vessel architectural design, equip-
25 ment failure, or any other extraordinary conditions.

1 (1) by striking the section heading and insert-
2 ing the following:

3 **“SEC. 1103. ARMED SERVICES WHOLE VESSEL MANAGE-
4 MENT PROGRAM.”**; and

5 (2) in subsection (a)—

6 (A) by striking “Subject to” and inserting
7 the following:

8 “(1) BALLAST WATER.—Subject to”; and

9 (B) by adding at the end the following:

10 “(2) TOWED VESSEL MANAGEMENT PRO-
11 GRAM.—

12 “(A) IN GENERAL.—Subject to operational
13 conditions, the Secretary of Defense, in con-
14 sultation with the Secretary, the Task Force,
15 and the International Maritime Organization,
16 shall implement a towed vessel management
17 program for Department of Defense vessels to
18 minimize the risk of introductions of aquatic
19 invasive species through hull and associated hull
20 aperture transfers by towed vessels.

21 “(B) CURRENT BALLAST PROGRAM.—Sub-
22 paragraph (A) shall not affect the ballast pro-
23 gram for Department of Defense vessels in ef-
24 fect immediately before the enactment of the
25 National Aquatic Invasive Species Act of 2005.

1 “(3) REPORTS.—Not later than 3 years after
2 the date of enactment of the National Aquatic
3 Invasive Species Act of 2005, and every 3 years
4 thereafter, the Secretary of Defense shall submit to
5 the Congress a report that includes a summary and
6 analysis of the program carried out under this sec-
7 tion.”.

8 **SEC. 113. CONFORMING AMENDMENTS.**

9 (a) Section 1101(g) of the Nonindigenous Aquatic
10 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
11 4711(g)) is amended by striking “under subsection (b) or
12 (f)” each place it appears and inserting “under this sec-
13 tion”.

14 (b) Section 1102(c)(1) of the Nonindigenous Aquatic
15 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
16 4712(c)(1)) is amended by striking “issued under section
17 1101(b)” and inserting “promulgated under section
18 1101(e)”.

19 (c) Section 1102(f)(1)(B) of the Nonindigenous
20 Aquatic Nuisance Prevention and Control Act of 1990 (16
21 U.S.C. 4712(f)(1)(B)) is amended by striking “guidelines
22 issued pursuant to section 1101(c)” and inserting “regula-
23 tions promulgated under section 1101(e)”.

1 **CHAPTER 2—PREVENTION OF THE INTRO-**
2 **DUCTION OF AQUATIC INVASIVE SPE-**
3 **CIES BY OTHER PATHWAYS**

4 **SEC. 114. PRIORITY PATHWAY MANAGEMENT PROGRAM.**

5 Subtitle C of title I of the Nonindigenous Aquatic
6 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
7 4721 et seq.) is amended by adding at the end the fol-
8 lowing:

9 **“SEC. 1210. PRIORITY PATHWAY MANAGEMENT PROGRAM.**

10 “(a) IDENTIFICATION OF HIGH PRIORITY PATH-
11 WAYS.—Not later than 2 years after the date of enactment
12 of the National Aquatic Invasive Species Act of 2006, and
13 every 3 years thereafter, the Task Force, in coordination
14 with the Invasive Species Council and in consultation with
15 representatives of States, industry, and other interested
16 parties, shall, based on pathway surveys and other avail-
17 able research relating to the rates of introductions in wa-
18 ters of the United States—

19 “(1) identify those pathways that pose the high-
20 est risk for introductions of invasive species, both
21 nationally and on a region-by-region basis unless
22 further managed;

23 “(2) develop recommendations for management
24 strategies for those high-risk pathways;

1 “(3) include in the report to the Congress re-
2 quired under section 1201(f)(2)(B) a description of
3 the identifications, strategies, and recommendations;
4 and

5 “(4) identify aquatic invasive species not yet in-
6 troduced into waters of the United States that are
7 likely to be introduced into waters of the United
8 States unless preventative measures are taken.

9 “(b) **MANAGEMENT OF HIGH PRIORITY PATH-**
10 **WAYS.**—Not later than 3 years after the date of enactment
11 of the National Aquatic Invasive Species Act of 2006, the
12 Task Force or agencies of jurisdiction shall, to the max-
13 imum extent practicable, implement the strategies de-
14 scribed in subsection (a)(2).”.

15 **SEC. 115. SCREENING PROCESS FOR PLANNED IMPORTA-**
16 **TIONS OF LIVE AQUATIC ORGANISMS.**

17 Subtitle B of the Nonindigenous Aquatic Nuisance
18 Prevention and Control Act of 1990 (16 U.S.C. 4711 et
19 seq.) is amended by adding at the end the following:

20 **“SEC. 1105. SCREENING PROCESS FOR PLANNED IMPORTA-**
21 **TIONS OF LIVE AQUATIC ORGANISMS.**

22 “(a) **IN GENERAL.**—Not later than 3 years after the
23 date of enactment of the National Aquatic Invasive Spe-
24 cies Act of 2006, no live aquatic organism of a species
25 not in trade shall be imported into the United States with-

1 out screening and approval in accordance with subsections
2 (c) and (d).

3 “(b) GUIDELINES.—

4 “(1) IN GENERAL.—Not later than 30 months
5 after the date of enactment of the National Aquatic
6 Invasive Species Act of 2006, in consultation with
7 regional panels convened under section 1203, States,
8 tribes, and other stakeholders, the Invasive Species
9 Council (in conjunction with the Task Force) shall
10 issue guidelines for screening proposed planned im-
11 portations of live aquatic organisms into the United
12 States, that include—

13 “(A) guidelines for minimum information
14 requirements for determinations under sub-
15 section (c); and

16 “(B) guidelines for a simplified notification
17 procedure for any additional shipments of orga-
18 nisms that may occur after completion of an
19 initial screening process and determination
20 under subsection (c).

21 “(2) PURPOSE.—The purpose of the screening
22 process shall be to prevent the introduction or estab-
23 lishment of aquatic invasive species in waters of the
24 United States and contiguous waters of Canada and
25 Mexico.

1 “(3) FACTORS.—In developing guidelines under
2 this subsection and reviewing and revising the guide-
3 lines under subsection (j), the Invasive Species
4 Council and the Task Force shall consider—

5 “(A) the likelihood of the spread of species
6 by human or natural means;

7 “(B) species that may occur in association
8 with the species planned for importation, in-
9 cluding pathogens, parasites, and free-living or-
10 ganisms; and

11 “(C) regional differences in probability of
12 invasion and associated impacts.

13 “(c) CATEGORIES.—The screening process conducted
14 pursuant to subsection (d) shall require the identification,
15 to the maximum extent practicable, to the species level or,
16 at least, to the genus level, of live aquatic organisms pro-
17 posed for importation and shall list—

18 “(1) species with high or moderate probability
19 of undesirable impacts to areas within the bound-
20 aries of the United States and contiguous areas of
21 neighboring countries, to which the species is likely
22 to spread; and

23 “(2) species on which there is insufficient infor-
24 mation to determine the risk category based on
25 guidelines issued pursuant to subsection (b)(1)(B).

1 “(d) EVALUATION.—

2 “(1) IN GENERAL.—Not later than 180 days
3 after the date of promulgation of guidelines under
4 subsection (b), in consultation with regional panels
5 convened under section 1203, States, tribes, and
6 other stakeholders, a Federal agency with authority
7 over an importation into the United States of a live
8 organism of a species not in trade shall screen the
9 species in accordance with guidelines promulgated
10 under subsection (b).

11 “(2) DELEGATION AND AUTHORITY.—If no
12 agency has authority described in paragraph (1) or
13 an agency delegates the screening to the Director
14 under subsection (h)—

15 “(A) the Director shall screen the orga-
16 nisms in accordance with subsections (a) and
17 (b); and

18 “(B) the Director may prohibit the impor-
19 tation of an organism of a species not in trade
20 if the Director determines, based on evaluations
21 consistent with the screening requirements pro-
22 mulgated under section (f), that the species has
23 a high or moderate probability of undesirable
24 impacts on areas within the boundaries of the
25 United States and contiguous areas of neigh-

1 boring countries to which the species may
2 spread.

3 “(3) MULTIPLE JURISDICTION.—If more than 1
4 agency has jurisdiction over the importation of a live
5 organism, the agencies shall conduct only 1 screen-
6 ing process as determined by a memorandum of un-
7 derstanding consistent with subsection (f), except
8 that the Secretary of Agriculture, shall conduct
9 screening of organisms imported to be cultured.

10 “(e) REQUIREMENTS.—A Federal agency of jurisdic-
11 tion, or the Director, shall—

12 “(1) restrict or prohibit the importation into
13 the United States from outside the United States of
14 any species that is described in subsection (c)(1);

15 “(2) prohibit the importation of any species de-
16 scribed in subsection (c)(2), unless the importation
17 is for the sole purpose of research that is conducted
18 in accordance with section 1202(f)(2); and

19 “(3) make a determination under this sub-
20 section not later than 60 days after receiving a re-
21 quest for permission to import a live aquatic species.

22 “(f) MEMORANDUM OF UNDERSTANDING.—

23 “(1) IN GENERAL.—The Director of the United
24 States Fish and Wildlife Service shall enter into a
25 memorandum of understanding with the heads of

1 the agencies of jurisdiction regarding the screening
2 requirements contained in this section.

3 “(2) CONTENTS.—The memorandum of under-
4 standing shall contain, at a minimum—

5 “(A) a description of the relationship be-
6 tween and responsibilities of the agencies of ju-
7 risdiction, including a process designating a
8 lead agency in cases in which multiple agencies
9 may have jurisdiction over the screening of an
10 aquatic species;

11 “(B) the process by which the Director will
12 delegate screening duties to and receive delega-
13 tion from other agencies of jurisdiction; and

14 “(C) the process by which agencies of ju-
15 risdiction will coordinate and share information
16 required for the screening process.

17 “(g) DELEGATION TO DIRECTOR.—Any agency with
18 authority over the planned importation of a live aquatic
19 organism may delegate to the Director the screening proc-
20 ess carried out under this section.

21 “(h) CATALOG OF SPECIES IN TRADE.—Not later
22 than 1 year after the date of enactment of the National
23 Aquatic Invasive Species Act of 2006, the Director of the
24 United States Geological Survey and the Director of the
25 Smithsonian Environmental Research Center, in coopera-

1 tion with agencies with jurisdiction over planned importa-
2 tions of live organisms, shall—

3 “(1) develop and update as necessary a catalog
4 of species in trade; and

5 “(2) include the list in the information provided
6 to the public pursuant to section 1102(f).

7 “(i) REVIEW AND REVISION.—

8 “(1) IN GENERAL.—At least once every 3 years,
9 the Council, in conjunction with the Task Force,
10 shall use research on early detection and monitoring
11 under section 1106, among other information
12 sources, to review and revise the screening, guide-
13 lines, and process carried out under this section.

14 “(2) REPORT.—The Invasive Species Council
15 shall include in its report to Congress required pur-
16 suant to section 1201(f)(2)(B)—

17 “(A) an evaluation of the effectiveness of
18 the screening processes carried out under this
19 section;

20 “(B) an evaluation of the consistency of
21 the application of the screening by agencies;
22 and

23 “(C) recommendations for revisions of the
24 processes.

1 “(j) PROHIBITIONS.—It shall be unlawful for any
2 person subject to the jurisdiction of the United States to
3 import an organism of a species described under sub-
4 section (c) or (d) or in violation of regulations promul-
5 gated under this section.

6 “(k) PENALTIES.—

7 “(1) CIVIL PENALTIES.—Any person who vio-
8 lates subsection (j) shall be liable for a civil penalty
9 in an amount not to exceed \$50,000.

10 “(2) CRIMINAL PENALTIES.—Any person who
11 knowingly violates subsection (j) is guilty of a class
12 C felony.

13 “(l) FEES.—The head of any agency that has juris-
14 diction over a planned importation of a species subject to
15 screening under this Act may increase the amount of any
16 appropriate fee that is charged under an authority of law
17 to offset the cost of any screening process carried out
18 under this section.

19 “(m) INFORMATION.—A Federal agency conducting
20 a screening process under this section shall make the re-
21 sults of the process available to the public (including inter-
22 national organizations).

23 “(n) REGULATIONS.—The Director may issue regula-
24 tions to implement this section.

1 “(o) APPLICABILITY: EFFECT ON OTHER LAWS.—
2 Nothing in this section shall be construed as repealing,
3 superseding, or modifying any provision of Federal or
4 state law.”.

5 **CHAPTER 3—EARLY DETECTION; RAPID**
6 **RESPONSE; CONTROL AND OUTREACH**

7 **SEC. 116. EARLY DETECTION.**

8 Subtitle B of the Nonindigenous Aquatic Nuisance
9 Prevention and Control Act of 1990 (16 U.S.C. 4711 et
10 seq.) (as amended by section 202) is amended by adding
11 at the end the following:

12 **“SEC. 1106. EARLY DETECTION AND MONITORING.**

13 “(a) EARLY DETECTION.—

14 “(1) IN GENERAL.—Not later than 18 months
15 after the date of enactment of the National Aquatic
16 Invasive Species Act of 2006, in conjunction with
17 the Council, the Task Force shall develop and pro-
18 mulgate a set of sampling protocols, a geographic
19 plan, and budget to support a national system of ec-
20 ological surveys to rapidly detect recently established
21 aquatic invasive species in waters of the United
22 States.

23 “(2) CONTENTS.—The protocols, plan, and
24 budget shall, at a minimum—

1 “(A) address a diversity of aquatic eco-
2 systems of the United States (including inland
3 and coastal waters);

4 “(B) encourage State, local, port, and trib-
5 al participation in monitoring;

6 “(C) balance scientific rigor with practica-
7 bility, timeliness, and breadth of sampling activ-
8 ity;

9 “(D) consider the pathways and/or orga-
10 nisms identified under section 1210;

11 “(E) include a capacity to evaluate the im-
12 pacts of permitted importations screened by the
13 processes established under section 1105; and

14 “(F) include clear lines of communication
15 with appropriate Federal, State, and regional
16 rapid response authorities.

17 “(3) IMPLEMENTATION.—Not later than 3
18 years after the date of enactment of the National
19 Aquatic Invasive Species Act of 2006, the Director
20 of the United States Fish and Wildlife Service, the
21 Administrator of the National Oceanic and Atmos-
22 pheric Administration, and the Administrator (in
23 consultation with the Invasive Species Council and
24 in coordination with other agencies) shall implement
25 a national system of ecological surveys that is—

1 “(A) carried out in cooperation with State,
2 local, port, tribal authorities, and other non-
3 Federal entities (such as colleges and univer-
4 sities); and

5 “(B) based on the protocols, plan, and
6 budget published under subsection (a)(1) and
7 any public comment.”.

8 **SEC. 117. RAPID RESPONSE.**

9 Subtitle C of title I of the Nonindigenous Aquatic
10 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
11 4721 et seq.) is further amended by adding at the end
12 the following:

13 **“SEC. 1211. RAPID RESPONSE.**

14 “(a) STATE RAPID RESPONSE CONTINGENCY STRAT-
15 EGIES.—

16 “(1) EMERGENCY FUNDS FOR RAPID RE-
17 SPONSE.—A State that has in effect a rapid re-
18 sponse contingency strategy for invasive species in
19 the State, including rapid assessment capabilities,
20 that is approved under paragraph (2) shall be eligi-
21 ble to receive emergency funding to remain available
22 until expended to implement rapid response meas-
23 ures for aquatic invasive species under the strategy,
24 subject to renewal, as determined by the Secretary

1 of the Interior and the Secretary in accordance with
2 paragraph (2).

3 “(2) APPROVAL OF RAPID RESPONSE CONTIN-
4 GENCY STRATEGIES.—The Task Force, in consulta-
5 tion with the Invasive Species Council, shall approve
6 a State rapid response contingency strategy de-
7 scribed in paragraph (1) if the strategy—

8 “(A) identifies all key governmental and
9 nongovernmental partners to be involved in car-
10 rying out the strategy;

11 “(B) clearly designates the authorities and
12 responsibilities of each partner, including the
13 authority of any State or government of an In-
14 dian tribe to distribute emergency funds;

15 “(C) specifies criteria for rapid response
16 measures, including a diagnostic system that—

17 “(i) distinguishes cases in which rapid
18 response has a likelihood of success and
19 cases in which rapid response has no likeli-
20 hood of success;

21 “(ii) distinguishes rapid response
22 measures from ongoing management and
23 control of established populations of aquat-
24 ic invasive species; and

1 “(iii) distinguishes instances in which
2 the rate and probability of organism dis-
3 persal is significantly altered by vessel
4 movements;

5 “(D) includes an early detection strategy
6 that supports or complements the early detec-
7 tion and monitoring system developed under
8 section 1106;

9 “(E) provides for a monitoring capability
10 to assess—

11 “(i) the extent of infestations; and

12 “(ii) the effectiveness of rapid re-
13 sponse efforts;

14 “(F) to the maximum extent practicable, is
15 integrated into the State aquatic invasive spe-
16 cies management plan approved under section
17 1204;

18 “(G) to the maximum extent possible, does
19 not use rapid response tools that do not meet
20 environmental criteria developed under sub-
21 section (e)(4);

22 “(H) includes a public education and out-
23 reach component directed at—

24 “(i) potential pathways for spread of
25 aquatic invasive species; and

1 “(ii) persons involved in industries
2 and recreational activities associated with
3 those pathways; and

4 “(I) to the extent that the strategy involves
5 vessels, conforms with guidelines issued by the
6 Secretary under subsection (c)(2).

7 “(b) REGIONAL RAPID RESPONSE CONTINGENCY
8 STRATEGIES.—The Task Force, with the concurrence of
9 the Invasive Species Council and in consultation with the
10 regional panels of the Task Force established under sec-
11 tion 1203, shall encourage the development of regional
12 rapid response contingency strategies that—

13 “(1) provide a consistent and coordinated ap-
14 proach to rapid response; and

15 “(2) are approved by—

16 “(A) the Secretary; and

17 “(B) the Governors and Indian tribes hav-
18 ing jurisdiction over areas within a region.

19 “(c) MODEL RAPID RESPONSE CONTINGENCY
20 STRATEGIES.—Not later than 18 months after the date
21 of enactment of the National Aquatic Invasive Species Act
22 of 2006—

23 “(1) the Task Force, with the concurrence of
24 the Invasive Species Council and the regional panels

1 of the Task Force established under section 1203,
2 shall develop—

3 “(A) a model State rapid response contin-
4 gency strategy for aquatic invasive species, in-
5 cluding rapid assessment capability, that in-
6 cludes, to the maximum extent practicable, the
7 components listed under subparagraphs (A)
8 through (H) of subsection (a)(2); and

9 “(B) a model regional rapid response con-
10 tingency strategy for aquatic invasive species;
11 and

12 “(2) the Secretary, in concurrence with the
13 Task Force and the regional panels, shall issue
14 guidelines that describe vessel-related requirements
15 that may be used in a rapid response contingency
16 strategy, including specific requirements for strategy
17 approved under this section.

18 “(d) COST SHARING.—

19 “(1) STATE RAPID RESPONSE CONTINGENCY
20 STRATEGIES.—The Federal share of the cost of ac-
21 tivities carried out under a State rapid response con-
22 tingency strategy approved under subsection (a)
23 shall be not less than 50 percent.

24 “(2) REGIONAL RAPID RESPONSE CONTINGENCY
25 STRATEGIES.—The Federal share of the cost of ac-

1 activities carried out under a regional rapid response
2 contingency strategy approved under subsection (b)
3 shall be not less than 75 percent.

4 “(3) IN-KIND CONTRIBUTIONS.—States or re-
5 gions that receive Federal funds for rapid response
6 activities may provide matching funds in the form of
7 in-kind contributions.

8 “(e) FEDERAL RAPID RESPONSE TEAMS.—

9 “(1) ESTABLISHMENT OF TEAMS.—Not later
10 than 1 year after the date of enactment of the Na-
11 tional Aquatic Invasive Species Act of 2006, the
12 Invasive Species Council, in coordination with the
13 Task Force and the heads of appropriate Federal
14 agencies, shall establish a Federal rapid response
15 team for each of the 10 Federal regions that com-
16 prise the Standard Federal Regional Boundary Sys-
17 tem.

18 “(2) DUTIES OF TEAMS.—Each Federal rapid
19 response team shall, at a minimum—

20 “(A) implement rapid eradication or con-
21 trol responses for newly detected aquatic
22 invasive species on Federal and tribal land;

23 “(B) carry out, or assist in carrying out,
24 rapid responses for newly detected aquatic
25 invasive species on non-Federal land at the re-

1 quest of a State, Indian tribe, or group of
2 States or Indian tribes;

3 “(C) provide training and expertise for
4 State, tribal, or regional rapid responders;

5 “(D) provide central sources of informa-
6 tion for rapid responders;

7 “(E) maintain a list of researchers and
8 rapid response volunteers; and

9 “(F) in carrying out any rapid response
10 activity with respect to an aquatic noxious weed
11 listed under section 412(f) of the Plant Protec-
12 tion Act (7 U.S.C. 7712(f)), include representa-
13 tives of the Animal and Plant Health Inspection
14 Service.

15 “(3) CRITERIA FOR IDENTIFYING CASES OF
16 RAPID RESPONSE WARRANTING FEDERAL ASSIST-
17 ANCE.—Not later than 1 year after the date of en-
18 actment of the National Aquatic Invasive Species
19 Act of 2006, the Task Force, with the concurrence
20 of the Invasive Species Council, shall develop criteria
21 to identify cases of rapid response warranting Fed-
22 eral assistance under this subsection, including cri-
23 teria relating to, at a minimum—

1 “(A) the extent to which infestations of
2 aquatic invasive species may be managed suc-
3 cessfully by rapid response;

4 “(B) the extent to which rapid response ef-
5 forts may differ from ongoing management and
6 control; and

7 “(C) the extent to which infestations of
8 nonindigenous aquatic invasive species are con-
9 sidered to be an acute or chronic threat to—

10 “(i) biodiversity of native fish and
11 wildlife;

12 “(ii) habitats of native fish and wild-
13 life; or

14 “(iii) human health.

15 “(4) ENVIRONMENTAL CRITERIA.—Not later
16 than 1 year after the date of enactment of the Na-
17 tional Aquatic Invasive Species Act of 2006, the Ad-
18 ministrator, in consultation with the Invasive Spe-
19 cies Council, the Secretary of Transportation, the
20 Task Force (including regional panels of the Task
21 Force established under section 1203), the Director,
22 and the Director of the National Marine Fisheries
23 Service, shall develop environmental criteria to mini-
24 mize nontarget environmental impacts of rapid re-
25 sponses carried out pursuant to this section.”.

1 **SEC. 118. DISPERSAL BARRIERS.**

2 Section 1202 of the Nonindigenous Aquatic Nuisance
3 Prevention and Control Act of 1990 (16 U.S.C. 4722) is
4 amended—

5 (1) by redesignating subsections (j) and (k) as
6 subsections (l) and (m), respectively; and

7 (2) by inserting after subsection (i) the fol-
8 lowing:

9 “(j) NATIONAL DISPERSAL BARRIER PROGRAM.—

10 “(1) CHICAGO RIVER SHIP AND SANITARY
11 CANAL DISPERSAL BARRIER PROJECT.—

12 “(A) IN GENERAL.—The Assistant Sec-
13 retary, with the concurrence of the Adminis-
14 trator, shall complete construction of, operate,
15 and maintain, the Chicago River Ship and Sani-
16 tary Canal dispersal barrier project.

17 “(B) CONSULTATION.—Subparagraph (A)
18 shall be carried out in consultation with the ap-
19 propriate Federal, State, local, and other non-
20 governmental entities.

21 “(C) CONSTRUCTION.—The completed bar-
22 rier project shall include additions to the dis-
23 persal barrier in existence on the date of enact-
24 ment of the National Aquatic Species Act of
25 2006, including—

26 “(i) backup power;

1 “(ii) a research vessel launching
2 crane;

3 “(iii) replacement electrodes;

4 “(iv) other barrier elements, as avail-
5 able and appropriate;

6 “(v) an acoustic monitoring system;

7 “(vi) an emergency egress system; and

8 “(vii) a second long-service life dis-
9 persal barrier.

10 “(D) FEASIBILITY STUDY OF CHICAGO
11 RIVER SHIP AND SANITARY CANAL.—

12 “(i) IN GENERAL.—Not later than 3
13 years after the date of enactment of the
14 National Aquatic Invasive Species Act of
15 2006, the Assistant Secretary, in consulta-
16 tion with appropriate Federal, State, local,
17 and nongovernmental entities, shall con-
18 duct a feasibility study of the full range of
19 options available to prevent the spread of
20 aquatic species through the Chicago River
21 Ship and Sanitary dispersal barrier.

22 “(ii) MATTERS TO BE STUDIED.—The
23 study shall—

24 “(I) provide recommendations
25 concerning additional and long-term

1 measures necessary to improve the
2 performance of the Chicago River
3 Ship and Sanitary Canal dispersal
4 barrier; and

5 “(II) examine methods and meas-
6 ures necessary to achieve, to the max-
7 imum extent practicable, 100-percent
8 efficacy of the barrier with respect to
9 aquatic invasive species of fish and
10 maximum efficacy of the barrier with
11 respect to other taxa of aquatic
12 invasive species.

13 “(2) MONITORING PROGRAM.—

14 “(A) ESTABLISHMENT.—Not later than 1
15 year after the date of enactment of the Na-
16 tional Aquatic Invasive Species Act of 2006, the
17 Secretary of the Interior shall establish an
18 interbasin and intrabasin monitoring program.

19 “(B) REQUIRED ELEMENTS.—The moni-
20 toring program shall—

21 “(i) track aquatic invasive species
22 moving through the Chicago River Ship
23 and Sanitary Canal, the Lake Champlain
24 Canal, other interbasin waterways, and

1 major river systems as recommended by re-
2 gional panels convened under section 1203;

3 “(ii) assess the efficacy of dispersal
4 barriers and other measures in preventing
5 the spread of aquatic invasive species
6 through the waterways; and

7 “(iii) identify waterways suitable for
8 dispersal barrier demonstration projects, in
9 addition to the waterways at which dis-
10 persal barrier demonstration projects were
11 carried out before the date of enactment of
12 the National Aquatic Invasive Species Act
13 of 2006.

14 “(C) REPORTS.—The Secretary of the In-
15 terior shall issue biennial reports on the find-
16 ings of the monitoring program.

17 “(3) PREVENTION AND MITIGATION PLANS FOR
18 ARMY CORPS OF ENGINEERS PROJECTS.—In devel-
19 oping projects involving interbasin waterways or
20 other hydrologic alternations that could create path-
21 ways for aquatic invasive species, the Assistant Sec-
22 retary shall develop adequate prevention and mitiga-
23 tion plans for controlling the dispersal of aquatic
24 invasive species.

1 “(4) TECHNICAL ASSISTANCE.—The Great
2 Lakes Environmental Research Laboratory of the
3 National Oceanic and Atmospheric Administration
4 shall provide technical assistance to appropriate enti-
5 ties to assist in the research conducted under this
6 subsection.

7 “(5) REPORTS.—Not later than 3 years after
8 the date of enactment of the National Aquatic
9 Invasive Species Act of 2006, the Assistant Sec-
10 retary and the Director shall jointly submit to the
11 Congress a report that describes—

12 “(A) the efficacy of the Chicago River Ship
13 and Sanitary Canal dispersal barrier project;
14 and

15 “(B) a plan to provide for additional dis-
16 persal barrier demonstration projects and fur-
17 ther research needs.

18 “(6) ADDITIONAL WATERWAYS.—The Assistant
19 Secretary, with the concurrence of the Adminis-
20 trator, and other relevant Federal agencies, shall—

21 “(A) identify additional waterways suitable
22 for the construction of new dispersal barriers
23 (based on the monitoring program established
24 under paragraph (2)); and

1 “(B) construct, maintain, and operate such
2 dispersal barriers as necessary.”.

3 **SEC. 119. ENVIRONMENTAL SOUNDNESS.**

4 Section 1202 of the Nonindigenous Aquatic Nuisance
5 Prevention and Control Act of 1990 (16 U.S.C. 4722) is
6 further amended by inserting after subsection (j) the fol-
7 lowing:

8 “(k) IMPROVEMENT OF TREATMENT METHODS FOR
9 AQUATIC INVASIVE SPECIES.—

10 “(1) CRITERIA TO EVALUATE ENVIRONMENTAL
11 SOUNDNESS OF TREATMENT METHODS.—

12 “(A) IN GENERAL.—Not later than 1 year
13 after the date of enactment of the National
14 Aquatic Invasive Species Act of 2006, the Ad-
15 ministrator, in consultation and cooperation
16 with the Secretary, the Invasive Species Coun-
17 cil, and the Task Force (including any regional
18 panels of the Task Force) shall promulgate cri-
19 teria to evaluate the treatment methods de-
20 scribed in subparagraph (B) for the purpose of
21 ensuring that the treatment methods pose no
22 significant threat of adverse effect on human
23 health, public safety, or the environment (in-
24 cluding air quality and the aquatic environ-

1 ment) that is acute, chronic, cumulative, or col-
2 lective.

3 “(B) TREATMENT METHODS.—The treat-
4 ment methods referred to in subparagraph (A)
5 are all mechanical, physical, chemical, biologi-
6 cal, and other treatment methods used in bodies
7 of water of the United States (regardless of
8 whether the bodies of water are navigable and
9 regardless of the origin of the waters), to pre-
10 vent, treat, or respond to the introduction of
11 aquatic invasive species.

12 “(C) CONSULTATION.—In carrying out
13 subparagraph (A), the Administrator shall con-
14 sult with—

- 15 “(i) the Secretary of Transportation;
16 “(ii) the Task Force (including the re-
17 gional panels of the Task Force established
18 under section 1203);
19 “(iii) the Director;
20 “(iv) the Assistant Secretary;
21 “(v) the Director of the National Ma-
22 rine Fisheries Service; and
23 “(vi) relevant State agencies.

24 “(2) PUBLICATION OF INFORMATION ON ENVI-
25 RONMENTALLY SOUND TREATMENT METHODS.—The

1 Administrator, in consultation with the Invasive Spe-
2 cies Council, shall publish (not later than 1 year
3 after the date of enactment of the National Aquatic
4 Invasive Species Act of 2006) and update annu-
5 ally—

6 “(A) a list of environmentally sound treat-
7 ment methods that may apply to a potential
8 aquatic invasive species response effort;

9 “(B) accompanying research that supports
10 the environmental soundness of each approved
11 treatment method; and

12 “(C) explicit guidelines under which each
13 treatment method can be used in an environ-
14 mentally sound manner.

15 “(3) REPORTS.—The Invasive Species Council
16 and Task Force shall include the information de-
17 scribed in paragraph (2) in the reports submitted
18 under section 1201(f)(2)(B).”.

19 **SEC. 120. INFORMATION, EDUCATION, AND OUTREACH.**

20 Section 1202(h) of the Nonindigenous Aquatic Nui-
21 sance Prevention and Control Act of 1990 (16 U.S.C.
22 4722(h)) is amended—

23 (1) by striking “(h) Education.—The Task
24 Force” and inserting the following:

25 “(h) INFORMATION, EDUCATION, AND OUTREACH.—

1 “(1) IN GENERAL.—The Task Force”; and

2 (2) by adding at the end the following:

3 “(2) ACTIVITIES.—

4 “(A) IN GENERAL.—The programs carried
5 out under paragraph (1) shall include the ac-
6 tivities described in this paragraph.

7 “(B) PUBLIC OUTREACH.—

8 “(i) PUBLIC WARNINGS.—Not later
9 than 180 days after the date of enactment
10 of the National Aquatic Invasive Species
11 Act of 2006, each Federal officer of an
12 agency that provides Federal funds to
13 States for building or maintaining public
14 access points to United States water bodies
15 shall amend the guidelines of the agency,
16 in consultation with relevant State agen-
17 cies, to encourage the posting of regionally
18 specific public warnings or other suitable
19 informational and educational materials at
20 the access points regarding—

21 “(I) the danger of spread of
22 aquatic invasive species through the
23 transport of recreational watercraft;
24 and

1 “(II) methods for removing orga-
2 nisms prior to transporting a
3 watercraft.

4 “(ii) CLEANING OF WATERCRAFT AT
5 MARINAS.—Not later than 1 year after the
6 date of enactment of the National Aquatic
7 Invasive Species Act of 2006, the Under
8 Secretary and the Director (in cooperation
9 with the Task Force and in consultation
10 with the States, relevant industry groups,
11 and Indian tribes) shall develop an edu-
12 cation, outreach, and training program di-
13 rected toward marinas and marina opera-
14 tors regarding—

15 “(I) checking watercraft for live
16 organisms;

17 “(II) removing live organisms
18 from the watercraft before the
19 watercraft are commercially or
20 recreationally trailered;

21 “(III) encouraging regular hull
22 cleaning and maintenance, avoiding
23 in-water hull cleaning; and

24 “(IV) other activities, as identi-
25 fied by the Secretary.

1 “(iii) PROPER DISPOSAL OF NON-
2 INDIGENOUS LIVE AQUATIC ORGANISMS IN
3 TRADE.—The Task Force shall—

4 “(I) not later than 1 year after
5 the date of enactment of the National
6 Aquatic Invasive Species Act of 2006,
7 develop (in consultation with industry
8 and other affected parties) issue
9 guidelines for proper disposal of live
10 nonindigenous aquatic organisms in
11 trade; and

12 “(II) use the guidelines in appro-
13 priate public information and out-
14 reach efforts.

15 “(C) 100th meridian program.—

16 “(i) IN GENERAL.—Not later than 1
17 year after the date of enactment of the
18 National Aquatic Invasive Species Act of
19 2006, the Task Force shall expand the in-
20 formation and education program directed
21 at recreational boaters in States from
22 which watercraft are transported westward
23 across the 100th meridian.

24 “(ii) ACTIVITIES.—In carrying out the
25 program, the task force shall—

1 “(I) survey owners of watercraft
2 transported westward across the
3 100th meridian to determine the
4 States of origin of most such owners;

5 “(II) provide information directly
6 to watercraft owners concerning the
7 importance of cleaning watercraft car-
8 rying live organisms before trans-
9 porting the watercraft; and

10 “(III) support education and in-
11 formation programs of the States of
12 origin to ensure that the State pro-
13 grams address westward spread.

14 “(D) INFORMATION AND EDUCATION PRO-
15 GRAM BY NATIONAL PARK SERVICE.—The Sec-
16 retary of the Interior, acting through the Direc-
17 tor of the National Park Service, shall develop
18 a program to provide public outreach and other
19 educational activities to prevent the spread of
20 aquatic invasive species by recreational
21 watercraft in parkland or through events spon-
22 sored by the National Park Service.

23 “(3) OUTREACH TO INDUSTRY.—The Task
24 Force, in conjunction with the Invasive Species
25 Council, shall carry out activities to inform and pro-

1 mote voluntary cooperation and regulatory compli-
2 ance by members of the national and international
3 maritime, horticultural, aquarium, aquaculture, and
4 pet trade industries with screening, monitoring, and
5 control of the transportation of aquatic invasive spe-
6 cies.

7 “(4) PUBLIC ACCESS TO MONITORING INFORMA-
8 TION.—The Task Force, the Invasive Species Coun-
9 cil, and other relevant agencies, shall maintain infor-
10 mation on the Internet regarding—

11 “(A) the best approaches for the public
12 and private interests to use in assisting with
13 national early detection and monitoring of
14 aquatic invasive species in waters of the United
15 States;

16 “(B) contact locations for joining a na-
17 tional network of monitoring stations;

18 “(C) approved State Management Plans
19 under section 1204(a) and Rapid Response
20 Contingency Strategies under sections
21 1211(a)(2) and 1211(e); and

22 “(D) the list of potential invaders under
23 section 1201(a)(4).”.

1 **CHAPTER 4—COORDINATION**

2 **SEC. 121. PROGRAM COORDINATION.**

3 (a) MEMBERSHIP OF TASK FORCE.—Section 1201(b)
4 of the Nonindigenous Aquatic Nuisance Prevention and
5 Control Act of 1990 (16 U.S.C. 4721) is amended—

6 (1) in paragraph (6) by striking “and” at the
7 end;

8 (2) by redesignating paragraph (7) as para-
9 graph (12); and

10 (3) by inserting after paragraph (6) the fol-
11 lowing:

12 “(7) the Director of the United States Geologi-
13 cal Survey;

14 “(8) the Director of the Smithsonian Environ-
15 mental Research Center;

16 “(9) the Secretary of State;

17 “(10) the Secretary of Transportation;

18 “(11) the Secretary of Homeland Security;

19 and”.

20 (b) COORDINATION WITH INVASIVE SPECIES COUN-
21 CIL.—Section 1201(f) of the Nonindigenous Aquatic Nui-
22 sance Prevention and Control Act of 1990 (16 U.S.C.
23 4721(f)) is amended—

24 (1) by striking “Each Task Force member” and
25 inserting the following:

1 “(1) IN GENERAL.—Each member of the Task
2 Force”; and

3 (2) by adding at the end the following:

4 “(2) INVASIVE SPECIES COUNCIL.—The
5 Invasive Species Council shall—

6 “(A) coordinate and cooperate with the
7 Task Force in carrying out the duties of the
8 Invasive Species Council relating to aquatic
9 invasive species;

10 “(B) not later than 2 years after the date
11 of enactment of the National Aquatic Invasive
12 Species Act of 2006, and every 3 years there-
13 after, submit to Congress a report that summa-
14 rizes the status of the conduct of activities au-
15 thorized by and required under this Act; and

16 “(C) establish any regional panels or task
17 forces in coordination with the regional panels
18 of the Task Force convened under section
19 1203.”.

20 (c) COORDINATION WITH OTHER PROGRAMS.—Sec-
21 tion 1202(c) of the Nonindigenous Aquatic Nuisance Pre-
22 vention and Control Act of 1990 (16 U.S.C. 4722(c)) is
23 amended by adding at the end the following:

24 “(3) RECOMMENDATIONS FOR LISTS.—

1 “(A) IN GENERAL.—The Task Force shall
2 annually recommend to Federal agencies of ju-
3 risdiction such additions of aquatic invasive
4 species as the Task Force determines to be ap-
5 propriate for inclusion on—

6 “(i) any list of species of wildlife
7 under the Lacey Act Amendments of 1981
8 (16 U.S.C. 3371 et seq.) (including regula-
9 tions under such Act); or

10 “(ii) any list of noxious weeds under
11 the Plant Protection Act (7 U.S.C. 7701 et
12 seq.) (including regulations promulgated
13 under that Act contained in part 360 of
14 title 7, Code of Federal Regulations (or
15 any successor regulations)).

16 “(B) PROCESS.—The Task Force may use
17 the screening process developed pursuant to
18 section 1105 to identify species pursuant to
19 subparagraph (A).”.

20 (d) REGIONAL COORDINATION.—Section 1203 of the
21 Nonindigenous Aquatic Nuisance Prevention and Control
22 Act of 1990 (16 U.S.C. 4723) is amended by adding at
23 the end the following:

24 “(d) ANNUAL INTERREGIONAL MEETING.—The Task
25 Force shall annually convene all regional panels estab-

1 lished pursuant to this Act for the purpose of information
2 transfer between and among panels, and between the pan-
3 els and the Task Force, regarding aquatic invasive species
4 management.

5 “(e) ORGANIZATIONS.—An interstate organization
6 that has a Federal charter authorized by law, interstate
7 agreement, or Executive order for purposes of fisheries or
8 natural resource management may receive funds under
9 this Act to implement activities authorized under this
10 Act.”.

11 (e) STATE AQUATIC INVASIVE SPECIES MANAGE-
12 MENT PLANS.—Section 1204(a) of the Nonindigenous
13 Aquatic Nuisance Prevention and Control Act of 1990 (16
14 U.S.C. 4724(a)) is amended—

15 (1) in paragraph (2)(A) by inserting before the
16 semicolon at the end the following: “, including, in
17 accordance with guidelines issued by the Task Force
18 under paragraph (5)”—

19 (A) rapid response contingency strategies
20 under section 1211;

21 (B) early detection strategies under section
22 1211(a)(2)(D);

23 (C) aquatic plant control programs pursu-
24 ant to other law; and

1 (D) screening of planned introductions
2 pursuant to section 1105;

3 (2) in paragraph (2)(D) by inserting “include”
4 after “(D)”; and

5 (3) by adding at the end the following:

6 “(5) GUIDELINES.—

7 “(A) IN GENERAL.—Not later than 1 year
8 after the date of enactment of the National
9 Aquatic Invasive Species Act of 2006, the Task
10 Force shall publish in the Federal Register
11 guidelines for the development of plans under
12 this subsection, including guidelines for report-
13 ing progress in implementing the plans, to en-
14 courage consistency in implementation of and
15 reporting under those plans.

16 “(B) GUIDELINES.—The guidelines pub-
17 lished under subparagraph (A) shall include, for
18 the purpose of paragraph (2)(A), guidelines
19 concerning—

20 “(i) rapid response contingency strate-
21 gies under section 1211;

22 “(ii) early detection and monitoring
23 strategies under section 1211(a)(2)(D);

24 “(iii) aquatic plant control programs;

1 “(iv) screening of planned introduc-
2 tions pursuant to and consistent with sec-
3 tion 1105; and

4 “(v) the review and revision of re-
5 quirements of this subsection and the re-
6 approval process under this subsection.

7 “(6) RELATIONSHIP TO OTHER PLANS.—

8 “(A) IN GENERAL.—A plan approved
9 under paragraph (4) shall be deemed to meet
10 any State planning requirement of the program
11 established under section 104 of the River and
12 Harbor Act of 1958 (33 U.S.C. 610) for a plan
13 to control noxious aquatic plant growths.

14 “(B) ENFORCEMENT.—Funds provided to
15 States for implementation of plans pursuant to
16 section 1204 may be used by States to enforce
17 requirements relating to aquatic invasive species
18 under the Plant Protection Act (7 U.S.C. 7701
19 et seq.) (including regulations promulgated
20 under that Act contained in part 360 of title 7,
21 Code of Federal Regulations (or any successor
22 regulations)).

23 “(7) REVIEW AND REVISION.—

24 “(A) IN GENERAL.—Each State shall peri-
25 odically review and, as necessary and subject to

1 subparagraph (B), revise the management plan
2 of the State in accordance with guidelines of
3 the Task Force under paragraph (5).

4 “(B) UPDATE OF EXISTING PLANS.—A
5 State plan approved under the section before
6 the date of the enactment of the National
7 Aquatic Species Act of 2006 shall be revised by
8 the State under guidelines issued by the Direc-
9 tor to conform to the guidelines published
10 under paragraph (5), but shall be treated as a
11 plan approved under this subsection for pur-
12 poses of grants under this section.

13 “(8) OTHER STATE MANAGEMENT PLANS.—In
14 addition to the management plans required under
15 this subsection, the Director shall encourage each
16 State to develop and implement new, and expand ex-
17 isting, State management plans to improve State ac-
18 tions to prevent and control aquatic invasive spe-
19 cies.”.

20 (f) GRANT PROGRAM.—Section 1204(b)(1) of the
21 Nonindigenous Aquatic Nuisance Prevention and Control
22 Act of 1990 (16 U.S.C. 4724(b)(1)) is amended by strik-
23 ing “subsection (a) for the implementation of those
24 plans.” and inserting the following:

25 “subsection (a)—

1 “(A) to develop those plans with a total amount
2 that does not exceed 10 percent of the amounts
3 made available for grants under this section for each
4 fiscal year; and

5 “(B) to implement those plans.”.

6 **SEC. 122. INTERNATIONAL COORDINATION.**

7 Subtitle E of the Nonindigenous Aquatic Nuisance
8 Prevention and Control Act of 1990 (16 U.S.C. 4751 et
9 seq.) is amended—

10 (1) by striking the subtitle heading and insert-
11 ing the following:

12 **“Subtitle E—Administration”**; and

13 (2) by adding at the end the following:

14 **“SEC. 1402. INTERNATIONAL COORDINATION.**

15 “(a) IN GENERAL.—The Task Force, the Invasive
16 Species Council, and the Secretary of State shall, to the
17 maximum extent practicable, coordinate activities to en-
18 sure that international efforts to prevent and manage
19 aquatic invasive species (including through the Inter-
20 national Maritime Organization, the International Con-
21 vention on the Exploration of the Sea, the Global Invasive
22 Species Program, and other appropriate programs) are co-
23 ordinated with policies of the United States established by
24 this Act.

1 “(b) COORDINATION WITH NEIGHBORING COUN-
2 TRIES.—

3 “(1) IN GENERAL.—The Task Force, in con-
4 sultation with the Secretary of State, shall include in
5 the report required by section 1202(m) a description
6 of the means by which international agreements and
7 regulations with countries that share a border with
8 the United States will be implemented and enforced
9 by Federal agencies (including a clarification of the
10 roles and responsibilities of those agencies).

11 “(2) NEGOTIATIONS.—As soon as practicable
12 after the date of enactment of the National Aquatic
13 Invasive Species Act of 2006, the Secretary of State
14 may enter into negotiations with—

15 “(A) Canada to issue a request that the
16 International Joint Commission, by not later
17 than 18 months after the date of enactment of
18 that Act, review, research, conduct hearings on,
19 and submit to the parties represented on the
20 International Joint Commission a report that
21 describes the success of current policies of gov-
22 ernments in the United States and Canada hav-
23 ing jurisdiction over the Great Lakes in antici-
24 pating and preventing biological invasions of

1 the aquatic ecosystem in the Great Lakes, in-
2 cluding—

3 “(i) an analysis of current Federal,
4 State or Provincial, local, and international
5 laws, enforcement practices, and agree-
6 ments;

7 “(ii) an analysis of prevention efforts
8 related to all likely pathways for biological
9 invasions of the aquatic ecosystem in the
10 Great Lakes; and

11 “(iii) recommendations of the Inter-
12 national Joint Commission for means by
13 which to improve and harmonize the poli-
14 cies and enforcement practices referred to
15 in clause (i); and

16 “(B) Mexico, to ensure coordination of ef-
17 forts of the United States with efforts of Mex-
18 ico to manage invasive species established in the
19 United States-Mexico border region.”.

20 **CHAPTER 5.—AUTHORIZATION OF**
21 **APPROPRIATIONS**

22 **SEC. 123. AUTHORIZATION OF APPROPRIATIONS.**

23 Section 1301 of the Nonindigenous Aquatic Nuisance
24 Prevention and Control Act of 1990 (16 U.S.C. 4741) is
25 amended to read as follows:

1 **“SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.**

2 “(a) IN GENERAL.—Except as otherwise provided in
3 this section, there are authorized to be appropriated such
4 sums as are necessary to carry out this Act for each of
5 fiscal years 2006 through 2010.

6 “(b) TASK FORCE AND AQUATIC NUISANCE SPECIES
7 PROGRAM.—There are authorized to be appropriated for
8 each of fiscal years 2006 through 2010—

9 “(1) \$8,000,000, to carry out activities of the
10 Task Force under section 1202, of which—

11 “(A) \$4,000,000 shall be used by the Di-
12 rector;

13 “(B) \$3,000,000 shall be used by the Na-
14 tional Oceanic and Atmospheric Administration;
15 and

16 “(C) \$1,000,000 shall be used by the
17 Invasive Species Council;

18 “(2) \$30,000,000, to provide grants under sec-
19 tion 1204(b);

20 “(3) \$3,000,000, to provide assistance to the
21 regional panels of the Task Force; and

22 “(4) \$1,000,000, to be used by the Director to
23 carry out section 1105(g).

24 “(c) INTERNATIONAL COORDINATION.—There is au-
25 thorized to be appropriated to the Department of State

1 to carry out section 1403 \$1,000,000 for each of fiscal
2 years 2006 through 2010.

3 “(d) PREVENTION OF INTRODUCTION BY VESSELS
4 OF AQUATIC INVASIVE SPECIES INTO WATERS OF THE
5 UNITED STATES.—There are authorized to be appro-
6 priated for each of fiscal years 2006 through 2010—

7 “(1) \$6,000,000, to be used by the Secretary to
8 carry out section 1101;

9 “(2) \$2,500,000, to be used by the Adminis-
10 trator to carry out section 1101; and

11 “(3) \$2,750,000, to be used by the Task Force
12 to carry out section 1101, of which—

13 “(A) \$1,500,000 shall be used by the Di-
14 rector; and

15 “(B) \$1,250,000 shall be used by the Na-
16 tional Oceanic and Atmospheric Administration.

17 “(e) PREVENTION OF THE INTRODUCTION BY NON-
18 VESSEL PATHWAYS OF AQUATIC INVASIVE SPECIES INTO
19 WATERS OF THE UNITED STATES.—There are authorized
20 to be appropriated for each of fiscal years 2006 through
21 2010—

22 “(1) \$5,000,000, to carry out the priority path-
23 way management program under section 1210, of
24 which—

1 “(A) \$2,000,000 shall be used by the Na-
2 tional Oceanic and Atmospheric Administration;
3 and

4 “(B) \$3,000,000 shall be used by the Di-
5 rector;

6 “(2) \$1,000,000, to be used by the Invasive
7 Species Council to establish screening guidelines
8 under section 1105(b); and

9 “(3) \$3,500,000, to be used by the Director to
10 promulgate and implement screening requirements
11 under section 1105(g).

12 “(f) EARLY DETECTION AND MONITORING.—There
13 are authorized to be appropriated, to carry out early detec-
14 tion, monitoring, and survey planning and implementation
15 under section 1106, \$2,000,000 for each of fiscal years
16 2006 and 2007 and \$10,000,000 for each of fiscal years
17 2008 through 2010, of which—

18 “(1) for each of fiscal years 2006 and 2007—

19 “(A) \$1,000,000 shall be used by the Na-
20 tional Oceanic and Atmospheric Administration;
21 and

22 “(B) \$1,000,000 shall be used by the Di-
23 rector; and

24 “(2) for each of fiscal years 2008 through
25 2010—

1 “(A) \$5,000,000 shall be used by the Na-
2 tional Oceanic and Atmospheric Administration;
3 and

4 “(B) \$5,000,000 shall be used by the Di-
5 rector.

6 “(g) CONTAINMENT AND CONTROL.—

7 “(1) DISPERSAL BARRIERS.—There are author-
8 ized to be appropriated—

9 “(A) for each of fiscal years 2006 through
10 2010, \$200,000, to be used by the Assistant
11 Secretary in carrying out operation and mainte-
12 nance of the Chicago River Canal Dispersal
13 Barrier under section 1202(j)(1);

14 “(B) for fiscal year 2006, such sums as
15 may be necessary and available until expended,
16 to be used by the Assistant Secretary in car-
17 rying out the complete construction of the Chi-
18 cago River Canal Dispersal Barrier;

19 “(C) for each of fiscal years 2006 through
20 2010, \$500,000, to be used by the Assistant
21 Secretary to carry out a feasibility study for the
22 construction described in subparagraph (C);
23 and

24 “(D) for each of fiscal years 2006 through
25 2010, \$2,150,000, to be used by the Director to

1 carry out the monitoring program under section
2 1202(j)(2).

3 “(2) RAPID RESPONSE.—There are authorized
4 to be appropriated for each of fiscal years 2006
5 through 2010—

6 “(A) \$25,000,000, to the rapid response
7 fund of the Secretary of the Interior established
8 under section 1211;

9 “(B) \$1,000,000, to be used by the
10 Invasive Species Council in developing the State
11 and regional rapid response contingency strat-
12 egy under section 1211; and

13 “(C) \$1,500,000, to be used for Federal
14 rapid response teams under section 1211(e), of
15 which—

16 “(i) \$500,000 shall be used by the
17 National Oceanic and Atmospheric Admin-
18 istration; and

19 “(ii) \$1,000,000 shall be used by the
20 Director.

21 “(3) ENVIRONMENTAL SOUNDNESS.—There is
22 authorized to be appropriated for establishment
23 under section 1202(k) of criteria for the improve-
24 ment of treatment methods for aquatic invasive spe-

1 cies \$600,000 for each of fiscal years 2006 through
2 2009.

3 “(h) INFORMATION, EDUCATION, AND OUTREACH.—

4 There are authorized to be appropriated for each of fiscal
5 years 2006 through 2010—

6 “(1) \$500,000, to be used by the Secretary of
7 the Interior to carry out the information and edu-
8 cation program under section 1202(h)(2)(D);

9 “(2) \$750,000, to be used by the Director in
10 carrying out the 100th meridian program under sec-
11 tion 1202(h)(2)(C);

12 “(3) \$2,000,000, to be used to carry out infor-
13 mational and educational activities of the Task
14 Force under section 1202(h), of which—

15 “(A) \$1,000,000 shall be used by the Na-
16 tional Oceanic and Atmospheric Administration;
17 and

18 “(B) \$1,000,000 shall be used by the Di-
19 rector; and

20 “(4) \$500,000, to be used by the National Oce-
21 anic and Atmospheric Administration to carry out
22 section 1202(h)(2)(B)(ii).”.

1 CHAPTER 6—CONFORMING AMENDMENTS**2 SEC. 124. CONFORMING AMENDMENTS.**

3 (a) IN GENERAL.—The Nonindigenous Aquatic Nui-
4 sance Prevention and Control Act of 1990 is amended—

5 (1) in section 1101 (16 U.S.C. 4711) by strik-
6 ing the section heading and inserting the following:

7 **“SEC. 1101. PREVENTION OF INTRODUCTION OF AQUATIC**
8 **INVASIVE SPECIES INTO WATERS OF THE**
9 **UNITED STATES BY VESSELS.”;**

10 (2) in section 1102 (16 U.S.C. 4712)—

11 (A) in subsection (a) by striking the sub-
12 section heading and inserting the following:

13 **“(a) STUDIES ON INTRODUCTION OF AQUATIC**
14 **INVASIVE SPECIES BY VESSELS.—”;** and

15 (B) in subsection (b)—

16 (i) by striking paragraph (1); and

17 (ii) by redesignating paragraphs (2)

18 and (3) as paragraphs (1) and (2), respec-

19 tively;

20 (3) in subtitle C (16 U.S.C. 4721 et seq.) by

21 striking the subtitle heading and inserting the fol-

22 lowing:

1 **“Subtitle C—Prevention and Con-**
2 **trol of Aquatic Invasive Species**
3 **Dispersal”;**

4 (4) in section 1201(a) (16 U.S.C. 4721(a)) by
5 striking “Nuisance Species” and inserting “Invasive
6 Species”;

7 (5) in section 1202 (16 U.S.C. 4722) by strik-
8 ing the section heading and inserting the following:

9 **“SEC. 1202. AQUATIC INVASIVE SPECIES PROGRAM.”;**

10 (6) in section 1204 (16 U.S.C. 4724) by strik-
11 ing the section heading and inserting the following:

12 **“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGE-**
13 **MENT PLANS.”;** and

14 (7) by striking “aquatic nuisance species” each
15 place it appears and inserting “aquatic invasive spe-
16 cies”.

17 (b) **SHORT TITLE.**—(1) Section 1001 of the Non-
18 indigenous Aquatic Nuisance Prevention and Control Act
19 of 1990 (16 U.S.C. 4701) is amended by striking “Non-
20 indigenous Aquatic Nuisance” and inserting “Nonindige-
21 nous Aquatic Invasive Species”.

22 (2) **REFERENCES.**—Any reference in a law, map, reg-
23 ulation, document, paper, or other record of the United
24 States to the Nonindigenous Aquatic Nuisance Prevention
25 and Control Act of 1990 shall be deemed to be a reference

1 to the Nonindigenous Aquatic Invasive Species Prevention
2 and Control Act of 1990.

3 **Subtitle B—Aquatic Invasive**
4 **Species Research**

5 **SEC. 141. SHORT TITLE.**

6 This subtitle may be cited as the “Aquatic Invasive
7 Species Research Act”.

8 **SEC. 142. FINDINGS.**

9 The Congress makes the following findings:

10 (1) Aquatic invasive species damage infrastruc-
11 ture, disrupt commerce, outcompete native species,
12 reduce biodiversity, and threaten human health.

13 (2) The direct and indirect costs of aquatic
14 invasive species to our Nation’s economy number in
15 the billions of dollars per year. In the Great Lakes
16 region, approximately \$3,000,000,000 dollars have
17 been spent in the past 10 years to mitigate the dam-
18 age caused by one invasive species, the zebra mussel.

19 (3) Recent studies have shown that, in addition
20 to economic damage, invasive species cause enor-
21 mous environmental damage, and have cited invasive
22 species as the second leading threat to endangered
23 species.

1 (4) Over the past 200 years, the rate of de-
2 tected marine and freshwater invasions in North
3 America has increased exponentially.

4 (5) The rate of invasions continues to grow
5 each year.

6 (6) Marine and freshwater research underlies
7 every aspect of detecting, preventing, controlling,
8 and eradicating invasive species, educating citizens
9 and stakeholders, and restoring ecosystems.

10 (7) Current Federal efforts, including research
11 efforts, have focused primarily on controlling estab-
12 lished invasive species, which is both costly and often
13 unsuccessful. An emphasis on research, development,
14 and demonstration to support efforts to prevent
15 invasive species or eradicate them upon entry into
16 United States waters would likely result in a more
17 cost-effective and successful approach to combating
18 invasive species through preventing initial introduc-
19 tion.

20 (8) Research, development, and demonstration
21 to support prevention and eradication includes moni-
22 toring of both pathways and ecosystems to track the
23 introduction and establishment of nonnative species,
24 and development and testing of technologies to pre-
25 vent introduction through known pathways.

1 (9) Therefore, Congress finds that it is in the
2 United States interest to conduct a comprehensive
3 and thorough research, development, and demonstra-
4 tion program on aquatic invasive species in order to
5 better understand how aquatic invasive species are
6 introduced and become established and to support
7 efforts to prevent the introduction and establishment
8 of, and to eradicate, these species.

9 **SEC. 143. DEFINITIONS.**

10 In this Act:

11 (1) **ADMINISTERING AGENCIES.**—The term “ad-
12 ministering agencies” means—

13 (A) the National Oceanic and Atmospheric
14 Administration (including the Great Lakes En-
15 vironmental Research Laboratory);

16 (B) the Smithsonian Institution (acting
17 through the Smithsonian Environmental Re-
18 search Center); and

19 (C) the United States Geological Survey.

20 (2) **AQUATIC ECOSYSTEM.**—The term “aquatic
21 ecosystem” means a freshwater, marine, or estuarine
22 environment (including inland waters, riparian
23 areas, and wetlands) located in the United States.

1 (3) BALLAST WATER.—The term “ballast
2 water” means any water (with its suspended matter)
3 used to maintain the trim and stability of a vessel.

4 (4) INVASION.—The term “invasion” means the
5 introduction and establishment of an invasive species
6 into an ecosystem beyond its historic range.

7 (5) INVASIVE SPECIES.—The term “invasive
8 species” means a species—

9 (A) that is nonnative to the ecosystem
10 under consideration; and

11 (B) whose introduction causes or may
12 cause harm to the economy, the environment, or
13 human health.

14 (6) INVASIVE SPECIES COUNCIL.—The term
15 “Invasive Species Council” means the council estab-
16 lished by section 3 of Executive Order No. 13112
17 (42 U.S.C. 4321 note).

18 (7) PATHWAY.—The term “pathway” means
19 one or more routes by which an invasive species is
20 transferred from one ecosystem to another.

21 (8) SPECIES.—The term “species” means any
22 fundamental category of taxonomic classification or
23 any viable biological material ranking below a genus
24 or subgenus.

1 (9) **TASK FORCE.**—The term “Task Force”
2 means the Aquatic Nuisance Species Task Force es-
3 tablished by section 1201(a) of the Nonindigenous
4 Aquatic Nuisance Prevention and Control Act of
5 1990 (16 U.S.C. 4721(a)).

6 (10) **TYPE APPROVAL.**—The term “type ap-
7 proval” means an approval procedure under which a
8 type of system is certified as meeting a standard es-
9 tablished pursuant to Federal law for a particular
10 application.

11 **SEC. 144. COORDINATION AND IMPLEMENTATION.**

12 (a) **COORDINATION.**—In carrying out this Act, the
13 administering agencies shall coordinate with—

14 (1) appropriate State agencies;

15 (2) the Fish and Wildlife Service, the Environ-
16 mental Protection Agency, and other appropriate
17 Federal agencies; and

18 (3) the Task Force and Invasive Species Coun-
19 cil.

20 (b) **IMPLEMENTATION.**—The administering agencies
21 shall enter into a memorandum of understanding regard-
22 ing the implementation of this Act, which shall include the
23 coordination required by subsection (a).

1 (c) COOPERATION.—In carrying out this Act, the ad-
2 ministering agencies shall contract, as appropriate, or oth-
3 erwise cooperate with academic researchers.

4 (d) STRUCTURE.—To the extent practicable, the ad-
5 ministering agencies shall carry out this Act working with-
6 in the organizational structure of the Task Force and
7 Invasive Species Council.

8 **SEC. 145. ECOLOGICAL AND PATHWAY RESEARCH.**

9 (a) IN GENERAL.—The administering agencies shall
10 develop and conduct a marine and fresh-water research
11 program which shall include ecological and pathway sur-
12 veys and experimentation to detect nonnative aquatic spe-
13 cies in aquatic ecosystems and to assess rates and patterns
14 of introductions of nonnative aquatic species in aquatic
15 ecosystems. The goal of this marine and freshwater re-
16 search program shall be to support efforts to prevent the
17 introduction of, detect, and eradicate invasive species
18 through informing early detection and rapid response ef-
19 forts, informing relevant policy decisions, and assessing
20 the effectiveness of implemented policies to prevent the in-
21 troduction and spread of aquatic invasive species. Surveys
22 and experiments under this subsection shall be commenced
23 not later than 18 months after the date of the enactment
24 of this Act.

1 (b) **PROTOCOL DEVELOPMENT.**—The administering
2 agencies shall establish standardized protocols for con-
3 ducting ecological and pathway surveys of nonnative
4 aquatic species under subsection (a) that are integrated
5 and produce comparable data. Protocols shall, as prac-
6 ticable, be integrated with existing protocols and data col-
7 lection methods. In developing the protocols under this
8 subsection, the administering agencies shall draw on the
9 recommendations gathered at the workshop under sub-
10 section (g). The protocols shall be peer reviewed, and re-
11 vised as necessary. Protocols shall be completed within 1
12 year after the date of the enactment of this Act.

13 (c) **ECOLOGICAL AND PATHWAY SURVEY REQUIRE-**
14 **MENTS.**—(1) Each ecological survey conducted under sub-
15 section (a) shall, at a minimum—

16 (A) document baseline ecological information of
17 the aquatic ecosystem including, to the extent prac-
18 ticable, a comprehensive inventory of native species,
19 nonnative species, and species of unknown origin
20 present in the ecosystem, as well as the chemical
21 and physical characteristics of the water and under-
22 lying substrate;

23 (B) for nonnative species, gather information to
24 assist in identifying their life history, environmental
25 requirements and tolerances, the historic range of

1 their native ecosystems, and their history of spread-
2 ing from their native ecosystems;

3 (C) track the establishment of nonnative species
4 including information about the estimated abun-
5 dance of nonnative organisms in order to allow an
6 analysis of the probable date of introduction of the
7 species; and

8 (D) identify the likely pathway of entry of non-
9 native species.

10 (2) Each pathway survey conducted under this sec-
11 tion shall, at a minimum—

12 (A) identify what nonnative aquatic species are
13 being introduced or may be introduced through the
14 pathways under consideration;

15 (B) determine the quantities of organisms being
16 introduced through the pathways under consider-
17 ation; and

18 (C) determine the practices that contributed to
19 or could contribute to the introduction of nonnative
20 aquatic species through the pathway under consider-
21 ation.

22 (d) NUMBER AND LOCATION OF SURVEY SITES.—
23 The administering agencies shall designate the number
24 and location of survey sites necessary to carry out marine
25 and freshwater research required under this section. In

1 establishing sites under this subsection or subsection (e),
2 emphasis shall be on the geographic diversity of sites, as
3 well as the diversity of the human uses and biological char-
4 acteristics of sites.

5 (e) COMPETITIVE GRANT PROGRAM.—The National
6 Oceanic and Atmospheric Administration and the United
7 States Geological Survey shall jointly administer a pro-
8 gram to award competitive, peer-reviewed grants to aca-
9 demic institutions, State agencies, and other appropriate
10 groups, in order to assist in carrying out subsection (a),
11 and shall include to the maximum extent practicable di-
12 verse institutions, including Historically Black Colleges
13 and Universities and those serving large proportions of
14 Hispanics, Native Americans, Asian-Pacific Americans, or
15 other underrepresented populations.

16 (f) SHIP PATHWAY SURVEYS.—Section
17 1102(b)(2)(B)(ii) of the Nonindigenous Aquatic Nuisance
18 Prevention and Control Act of 1990 (16 U.S.C.
19 4712(b)(2)(B)(ii)) is amended to read as follows:

20 “(ii) examine other potential modes
21 for the introduction of nonnative aquatic
22 species by ship, including hull fouling.”.

23 (g) WORKSHOP.—In order to support the develop-
24 ment of the protocols and design for the surveys under
25 subsections (b) and (c), and to determine how to obtain

1 consistent, comparable data across a range of ecosystems,
2 the administering agencies shall convene at least one
3 workshop with appropriate researchers and representa-
4 tives involved in the management of aquatic invasive spe-
5 cies from Federal and State agencies and academic insti-
6 tutions to gather recommendations. The administering
7 agencies shall make the results of the workshop widely
8 available to the public. The workshop shall be held within
9 180 days after the date of the enactment of this Act.

10 (h) EXPERIMENTATION.—The administering agen-
11 cies shall conduct research to identify the relationship be-
12 tween the introduction and establishment of nonnative
13 aquatic species, including those legally introduced, and the
14 circumstances necessary for those species to become
15 invasive.

16 (i) NATIONAL PATHWAY AND ECOLOGICAL SURVEYS
17 DATABASE.—

18 (1) IN GENERAL.—The United States Geologi-
19 cal Survey shall develop, maintain, and update, in
20 consultation and cooperation with the Smithsonian
21 Institution (acting through the Smithsonian Envi-
22 ronmental Research Center), the National Oceanic
23 and Atmospheric Administration, and the Task
24 Force, a central, national database of information
25 concerning information collected under this section.

- 1 (2) REQUIREMENTS.—The database shall—
- 2 (A) be widely available to the public;
- 3 (B) be updated not less than once a quar-
- 4 ter;
- 5 (C) be coordinated with existing databases,
- 6 both domestic and foreign, collecting similar in-
- 7 formation; and
- 8 (D) be, to the maximum extent practicable,
- 9 formatted such that the data is useful for both
- 10 researchers and Federal and State employees
- 11 managing relevant invasive species programs.

12 **SEC. 146. ANALYSIS.**

13 (a) INVASION ANALYSIS.—

- 14 (1) IN GENERAL.—Not later than 3 years after
- 15 the date of the enactment of this Act, and every year
- 16 thereafter, the administering agencies shall analyze
- 17 data collected under section 5 and other relevant re-
- 18 search on the rates and patterns of invasions by
- 19 aquatic invasive species in waters of the United
- 20 States. The purpose of this analysis shall be to use
- 21 the data collected under section 5 and other relevant
- 22 research to support efforts to prevent the introduc-
- 23 tion of, detect, and eradicate invasive species
- 24 through informing early detection and rapid re-
- 25 sponse efforts, informing relevant policy decisions,

1 and assessing the effectiveness of implemented poli-
2 cies to prevent the introduction and spread of
3 invasive species.

4 (2) CONTENTS.—The analysis required under
5 paragraph (1) shall include with respect to aquatic
6 invasive species—

7 (A) an analysis of pathways, including—

8 (i) identifying, and characterizing as
9 high, medium, or low risk, pathways re-
10 gionally and nationally;

11 (ii) identifying new and expanding
12 pathways;

13 (iii) identifying handling practices
14 that contribute to the introduction of spe-
15 cies in pathways; and

16 (iv) assessing the risk that species le-
17 gally introduced into the United States
18 pose for introduction into aquatic eco-
19 systems;

20 (B) patterns and rates of invasion and sus-
21 ceptibility to invasion of various bodies of
22 water;

23 (C) how the risk of establishment through
24 a pathway is related to the identity and number
25 of organisms transported;

1 (D) rates of spread and numbers and types
2 of pathways of spread of new populations of the
3 aquatic invasive species and an estimation of
4 the potential spread and distribution of newly
5 introduced invasive species based on their envi-
6 ronmental requirements and historical distribu-
7 tion;

8 (E) documentation of factors that influ-
9 ence an ecosystem's vulnerability to a nonnative
10 aquatic species becoming invasive;

11 (F) a description of the potential for, and
12 impacts of, pathway management programs on
13 invasion rates;

14 (G) recommendations for improvements in
15 the effectiveness of pathway management;

16 (H) to the extent practical, a determina-
17 tion of the level of reduction in live organisms
18 of various taxonomic groups required to reduce
19 the risk of establishment to receiving aquatic
20 ecosystems to an acceptable level; and

21 (I) an evaluation of the effectiveness of
22 management actions (including any standard)
23 at preventing nonnative species introductions
24 and establishment.

1 (b) RESEARCH TO ASSESS THE POTENTIAL OF THE
2 ESTABLISHMENT OF INTRODUCED SPECIES.—Within 2
3 years after the date of the enactment of this Act, the ad-
4 ministering agencies shall develop a profile, based on the
5 general characteristics of invasive species and vulnerable
6 ecosystems, in order to predict, to the extent practical,
7 whether a species planned for importation is likely to in-
8 vade a particular aquatic ecosystem if introduced. In de-
9 veloping the profile, the above agencies shall analyze the
10 research conducted under section 5, and other research
11 as necessary, to determine general species and ecosystem
12 characteristics (taking into account the opportunity for in-
13 troduction into any ecosystem) and circumstances that can
14 lead to establishment. Based on the profile, the Task
15 Force shall make recommendations to the Invasive Species
16 Council as to what planned importations of nonnative
17 aquatic organisms should be restricted. This profile shall
18 be peer-reviewed.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated for carrying out this sec-
21 tion and section 5 of this Act, and section 1102(b)(2) of
22 the Nonindigenous Aquatic Nuisance Prevention and Con-
23 trol Act of 1990 (16 U.S.C. 4712(b)(2)) for each of the
24 fiscal years 2006 through 2010—

1 (1) \$4,000,000 for the Smithsonian Environ-
2 mental Research Center;

3 (2) \$11,000,000 for the United States Geologi-
4 cal Survey (including activities through the Coopera-
5 tive Fish and Wildlife Research Program), of which
6 \$6,500,000 shall be for the grant program under
7 section 5(e), and of which \$500,000 shall be for de-
8 veloping, maintaining, and updating the database
9 under section 5(i); and

10 (3) \$10,500,000 for the National Oceanic and
11 Atmospheric Administration, of which \$6,500,000
12 shall be for the grant program under section 5(e).

13 **SEC. 147. DISSEMINATION.**

14 (a) IN GENERAL.—The Invasive Species Council, in
15 coordination with the Task Force and the administering
16 agencies, shall be responsible for disseminating the infor-
17 mation collected under this Act to the public, including
18 Federal, State, and local entities, relevant policymakers,
19 and private researchers with responsibility over or interest
20 in aquatic invasive species.

21 (b) REPORT TO CONGRESS.—Not later than 3 years
22 after the date of the enactment of this Act, the Invasive
23 Species Council shall report actions and findings under
24 section 6 to the Congress, and shall update this report
25 once every 3 years thereafter, or more often as necessary.

1 (c) RESPONSE STRATEGY.—The Invasive Species
2 Council, in coordination with the Task Force, the admin-
3 istering agencies, and other appropriate Federal and State
4 agencies, shall develop and implement a national strategy
5 for how information collected under this Act will be shared
6 with Federal, State, and local entities with responsibility
7 for determining response to the introduction of potentially
8 invasive aquatic species, to enable those entities to better
9 and more rapidly respond to such introductions.

10 (d) PATHWAY PRACTICES.—The Invasive Species
11 Council, in coordination with the Task Force and the ad-
12 ministering agencies, shall disseminate information to,
13 and develop an ongoing educational program for, pathway
14 users (including vendors and customers) on how their
15 practices could be modified to prevent the intentional or
16 unintentional introduction of nonnative aquatic species
17 into aquatic ecosystems.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
19 authorized to be appropriated to the Secretary of the Inte-
20 rior for each of the fiscal years 2006 through 2010
21 \$500,000 for the Invasive Species Council for carrying out
22 this section.

1 **SEC. 148. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
2 **AND VERIFICATION.**

3 (a) ENVIRONMENTALLY SOUND TECHNOLOGY DE-
4 VELOPMENT, DEMONSTRATION, AND VERIFICATION.—

5 (1) GRANT PROGRAM.—Not later than 1 year
6 after the date of the enactment of this Act, the En-
7 vironmental Protection Agency, acting through the
8 Office of Research and Development, in consultation
9 with the Army Corps of Engineers, the admin-
10 istering agencies, and the Task Force, shall develop
11 and begin administering a grant program to fund re-
12 search, development, demonstration, and verification
13 of environmentally sound cost-effective technologies
14 and methods to control and eradicate aquatic
15 invasive species.

16 (2) PURPOSES.—Proposals funded under this
17 subsection shall—

18 (A) seek to support Federal, State, or local
19 officials' ongoing efforts to control and eradi-
20 cate aquatic invasive species in an environ-
21 mentally sound manner;

22 (B) increase the number of environ-
23 mentally sound technologies or methods Fed-
24 eral, State, or local officials may use to control
25 or eradicate aquatic invasive species;

1 (C) provide for demonstration or dissemi-
2 nation of the technology or method to potential
3 end-users; and

4 (D) verify that any technology or method
5 meets any appropriate criteria developed for ef-
6 fectiveness and environmental soundness by the
7 Environmental Protection Agency.

8 (3) PREFERENCE.—The Administrator of the
9 Environmental Protection Agency shall give pref-
10 erence to proposals that will likely meet any appro-
11 priate criteria developed for environmental sound-
12 ness by the Environmental Protection Agency.

13 (4) MERIT REVIEW.—Grants shall be awarded
14 under this subsection through a competitive, peer-re-
15 viewed process.

16 (5) REPORT.—Not later than 3 years after the
17 date of the enactment of this Act, the Administrator
18 of the Environmental Protection Agency shall pre-
19 pare and submit a report to Congress on the pro-
20 gram conducted under this subsection. The report
21 shall include findings and recommendations of the
22 Administrator with regard to technologies and meth-
23 ods.

24 (b) SHIP PATHWAY TECHNOLOGY DEMONSTRA-
25 TION.—

1 (1) REAUTHORIZATION OF PROGRAM.—Section
2 1301(e) of the Nonindigenous Aquatic Nuisance
3 Prevention and Control Act of 1990 (16 U.S.C.
4 4741(e)) is amended by striking “\$2,500,000” and
5 inserting “\$7,500,000 for each of the fiscal years
6 2006 through 2010”.

7 (2) EXPANSION OF PROGRAM.—Section 1104(b)
8 of the Nonindigenous Aquatic Nuisance Prevention
9 and Control Act of 1990 (16 U.S.C. 4714(b)) is
10 amended—

11 (A) by redesignating paragraphs (4) and
12 (5) as paragraphs (5) and (6), respectively; and

13 (B) by inserting after paragraph (3) the
14 following new paragraph:

15 “(4) ADDITIONAL PURPOSES.—The Secretary
16 of the Interior and the Secretary of Commerce may
17 also demonstrate and verify technologies under this
18 subsection to monitor and control pathways of orga-
19 nism transport on ships other than through ballast
20 water.”.

21 (3) CRITERIA AND WORKSHOP.—Section 1104
22 of the Nonindigenous Aquatic Nuisance Prevention
23 and Control Act of 1990 (16 U.S.C. 4714) is
24 amended by adding at the end the following new
25 subsections:

1 “(d) CRITERIA.—When issuing grants under this sec-
2 tion, the National Oceanic and Atmospheric Administra-
3 tion shall give preference to those technologies that will
4 likely meet the criteria laid out in any testing protocol de-
5 veloped by the Environmental Protection Agency Office of
6 Research and Development’s Environmental Technology
7 Verification Program.

8 “(e) WORKSHOP.—The National Oceanic and Atmos-
9 pheric Administration shall hold an annual workshop of
10 principal investigators funded under this section and re-
11 searchers conducting research directly related to ship
12 pathway technology development, for information ex-
13 change, and shall make the proceedings widely available
14 to the public.”.

15 (c) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated for each of the fiscal
17 years 2006 through 2010 \$2,500,000 for the Environ-
18 mental Protection Agency to carry out subsection (a).

19 **SEC. 149. RESEARCH TO SUPPORT THE SETTING AND IM-**
20 **PLEMENTATION OF SHIP PATHWAY STAND-**
21 **ARDS.**

22 (a) RESEARCH PROGRAM.—The Coast Guard and the
23 Environmental Protection Agency, in coordination with
24 the National Oceanic and Atmospheric Administration,
25 the Task Force, and other appropriate Federal agencies

1 and academic researchers, shall develop a coordinated re-
2 search program to support the promulgation and imple-
3 mentation of standards to prevent the introduction and
4 spread of invasive species by ships that shall include—

5 (1) characterizing physical, chemical, and bio-
6 logical harbor conditions relevant to ballast dis-
7 charge into United States waters to inform the de-
8 sign and implementation of ship vector control tech-
9 nologies and practices;

10 (2) developing testing protocols for determining
11 the effectiveness of vector monitoring and control
12 technologies and practices;

13 (3) researching and demonstrating methods for
14 mitigating the spread of invasive species by coastal
15 voyages, including exploring the effectiveness of al-
16 ternative exchange zones in the near coastal areas
17 and other methods proposed to reduce transfers of
18 organisms;

19 (4) verifying the practical effectiveness of any
20 type approval process to ensure that the process pro-
21 duces repeatable and accurate assessments of treat-
22 ment effectiveness; and

23 (5) evaluating the effectiveness and residual
24 risk and environmental impacts associated with any

1 standard set with respect to the ship pathway
2 through experimental research.

3 (b) WORKING GROUP.—Not later than 2 years after
4 the issuance by the Coast Guard of any standard relating
5 to the introduction by ships of invasive species, the Coast
6 Guard shall convene a working group including the Envi-
7 ronmental Protection Agency, the administering agencies,
8 and other appropriate Federal and State agencies and aca-
9 demic researchers, to evaluate the effectiveness of that
10 standard and accompanying implementation protocols.
11 The duties of the working group shall, at a minimum, in-
12 clude—

13 (1) reviewing the effectiveness of the standard
14 in reducing the establishment of invasive species in
15 aquatic ecosystems, taking into consideration the
16 data collected under section 5; and

17 (2) developing recommendations to the Coast
18 Guard for the revision of such standard and type ap-
19 proval process to ensure effectiveness in reducing in-
20 troductions and accurate shipboard monitoring of
21 treatment performance that is simple and stream-
22 lined, which shall be made widely available to the
23 public.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated for each of the fiscal

1 years 2006 through 2010 \$1,500,000 for the Coast Guard
2 and \$1,500,000 for the Environmental Protection Agency
3 to carry out subsection (a).

4 **SEC. 150. RESEARCH IN SYSTEMATICS AND TAXONOMY.**

5 (a) IN GENERAL.—The National Science Foundation
6 shall establish a program to award grants to researchers
7 at institutions of higher education and museums to carry
8 out research programs in systematics and taxonomy.

9 (b) GOALS.—The goals of the program under this
10 section are to—

11 (1) encourage scientists to pursue careers in
12 systematics and taxonomy to ensure a continuing
13 knowledge base in these disciplines;

14 (2) ensure that there will be adequate expertise
15 in systematics and taxonomy to support Federal,
16 State, and local needs to identify species;

17 (3) develop this expertise throughout the United
18 States with an emphasis on regional diversity; and

19 (4) draw on existing expertise in systematics
20 and taxonomy at institutions of higher education
21 and museums to train the next generation of system-
22 atists and taxonomists.

23 (c) CRITERIA.—Grants shall be awarded under this
24 section on a merit-reviewed competitive basis. Emphasis
25 shall be placed on funding proposals in a diverse set of

1 ecosystems and geographic locations, and, when applica-
2 ble, integrated with the United States Long Term Ecologi-
3 cal Research Network. Preference shall be given to pro-
4 posals that will include student participation, and to insti-
5 tutions and museums that actively train students to be-
6 come experts in taxonomy and systematics.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to the National Science
9 Foundation for carrying out this section \$2,500,000 for
10 each of the fiscal years 2006 through 2010.

11 **SEC. 151. STATE PROGRAMS.**

12 (a) PLAN.—The administering agencies, in coopera-
13 tion with the appropriate State agencies, shall develop a
14 plan to—

15 (1) conduct a survey of methods States and
16 Federal agencies are using to control or eradicate
17 aquatic invasive species;

18 (2) facilitate the exchange of information
19 among States and Federal agencies on methods
20 States or Federal agencies have found to be effective
21 at controlling or eradicating aquatic invasive species
22 and the costs of those methods; and

23 (3) evaluate the cost-effectiveness of the various
24 methods States and Federal agencies are using to
25 control or eradicate aquatic invasive species.

1 (b) REPORT.—Not later than one year after the date
2 of enactment of this Act, the administering agencies shall
3 jointly transmit to the Congress the plan described in sub-
4 section (a) and the expected costs of carrying out the plan.

5 **Subtitle C—Invasive Species**
6 **Council**

7 **SEC. 161. SHORT TITLE.**

8 This subtitle may be cited as the “National Invasive
9 Species Council Act”.

10 **SEC. 162. STATEMENT OF POLICY REGARDING FEDERAL**
11 **DUTIES.**

12 (a) IN GENERAL.—No Federal agency may author-
13 ize, fund, or carry out any action that would likely cause
14 or promote the introduction or spread of an invasive spe-
15 cies in the United States or any other location, unless the
16 head of the Federal agency, at his or her sole discretion
17 and pursuant to guidelines developed under subsection (b),
18 determines that—

19 (1) the benefits of the action under consider-
20 ation clearly outweigh the potential harm to the en-
21 vironment, economy, or human health caused by the
22 introduction or spread of the invasive species; and

23 (2) all feasible and prudent measures to mini-
24 mize risk of harm to the environment, economy, or

1 human health will be taken in carrying out the ac-
2 tions.

3 (b) GUIDELINES.—The Council for Environmental
4 Quality, in conjunction with the Invasive Species Council,
5 shall develop guidelines for Federal agencies to analyze ac-
6 tions pursuant to this section.

7 **SEC. 163. NATIONAL INVASIVE SPECIES COUNCIL.**

8 (a) ESTABLISHMENT.—There is established as an
9 independent entity within the executive branch the Na-
10 tional Invasive Species Council. The Council shall provide
11 leadership and coordination among Federal agencies, and
12 between the Federal Government and State and local gov-
13 ernments, with respect to effort to minimize the economic,
14 ecological, and human health impacts that invasive species
15 cause and reduce the threat of further invasions.

16 (b) MEMBERSHIP.—

17 (1) IN GENERAL.—The Council shall consist of
18 the following members:

19 (A) The Secretary of the Interior.

20 (B) The Secretary of Agriculture.

21 (C) The Secretary of Commerce.

22 (D) The Secretary of State.

23 (E) The Secretary of the Treasury.

24 (F) The Secretary of Defense.

25 (G) The Secretary of Transportation.

1 (H) The Secretary of Health and Human
2 Services.

3 (I) The Administrator of the Environ-
4 mental Protection Agency.

5 (J) The Administrator of the United
6 States Agency for International Development.

7 (K) Such additional members as may be
8 appointed under paragraph (2).

9 (2) ADDITIONAL MEMBERS.—With the concur-
10 rence of a majority of the members of the Council,
11 the Chair of the Council may appoint additional
12 members to the Council from among individuals who
13 are officers or employees of the Federal Government
14 with significant responsibilities concerning invasive
15 species.

16 (c) CHAIR.—The Secretary of the Interior shall serve
17 as chair of the Council for the 3-year period beginning
18 on the date of the enactment of this Act. Thereafter, the
19 chair shall rotate every 3 years among the following mem-
20 bers, in the order stated:

21 (1) The Secretary of Agriculture.

22 (2) The Secretary of Commerce.

23 (3) The Secretary of the Interior.

24 (d) MEETINGS.—The Council shall meet at least
25 semiannually, at the call of the chair.

1 (e) EXECUTIVE DIRECTOR.—

2 (1) APPOINTMENT.—The President shall ap-
3 point the Executive Director of the Council, by and
4 with the advice and consent of the Senate.

5 (2) CONSULTATION.—Before appointing an in-
6 dividual under paragraph (1), the President shall
7 consult with the Secretary of the Interior, the Sec-
8 retary of Agriculture, and the Secretary of Com-
9 merce.

10 (3) QUALIFICATIONS.—An individual appointed
11 under this subsection must have legal or scientific
12 experience and training in the area of natural re-
13 sources, ecology, or agriculture, and experience in
14 dealing with public policy matters regarding aquatic
15 and terrestrial invasive species.

16 (4) TERM.—The Executive Director of the
17 Council shall serve a term of six years, unless re-
18 moved earlier by the President.

19 (5) COMPENSATION.—The Executive Director
20 shall be paid at the maximum rate of basic pay for
21 GS–15 of the General Schedule.

22 **SEC. 164. DUTIES.**

23 (a) IN GENERAL.—The Council shall ensure that
24 Federal agency efforts concerning invasive species are co-
25 ordinated, effective, complementary, and cost-efficient.

1 (b) SPECIFIC FUNCTIONS.—To carry out subsection
2 (a) the Council shall perform the following functions:

3 (1) Coordinate with existing organizations ad-
4 dressing invasive species, such as the Aquatic Nui-
5 sance Species Task Force, the Federal Interagency
6 Committee for the Management of Noxious and Ex-
7 otic Weeds, regional panels established under the
8 Nonindigenous Aquatic Nuisance Prevention and
9 Control Act of 1990 (16 U.S.C. 4701 et seq.), and
10 the White House Office of Science and Technology
11 Policy, to implement the National Management
12 Plan.

13 (2) Develop recommendations for international
14 cooperation between Federal and State Governments
15 and other nations on tools, policies, and methods to
16 prevent the introduction and export of invasive spe-
17 cies into and from, respectively, the United States.

18 (3) Develop guidelines for Federal agency ef-
19 forts to ensure that Federal programs concerning
20 invasive species, including outreach programs, are
21 coordinated with State, local, and tribal govern-
22 ments.

23 (4) Develop, in consultation with the Council on
24 Environmental Quality, guidance to Federal agencies
25 pursuant to the National Environmental Policy Act

1 of 1969 (42 U.S.C. 4321 et seq.) on prevention, con-
2 trol, and eradication of invasive species.

3 (5) Establish and maintain a publicly acces-
4 sible, coordinated, up-to-date information sharing
5 system that—

6 (A) allows the access to and exchange of
7 information among Federal agencies and the
8 public; and

9 (B) utilizes, to the greatest extent prac-
10 ticable, the Internet.

11 (6) Ensure that Federal agencies implement the
12 plans, programs, and policies adopted by the Council
13 in the National Management Plan through appro-
14 priate actions, including working in cooperation with
15 Federal agencies on development of budgets pursu-
16 ant to the President's annual budget submission to
17 the Congress.

18 (7) Evaluate Federal programs that are likely
19 to cause or promote the introduction or spread of
20 invasive species in the United States, and rec-
21 ommend actions Federal agencies can take to mini-
22 mize the risk of introductions or further spread of
23 invasive species.

24 (8) Develop and submit to the appropriate
25 Committees of the House of Representatives and

1 Senate and the Director of the Office of Manage-
2 ment and Budget an annual list of priorities, ranked
3 in high, medium, and low categories, of Federal ef-
4 forts and programs in the following areas:

5 (A) Prevention.

6 (B) Eradication.

7 (C) Control.

8 (D) Monitoring.

9 (E) Research.

10 (F) Outreach.

11 **SEC. 165. NATIONAL INVASIVE SPECIES MANAGEMENT**

12 **PLAN.**

13 (a) DEVELOPMENT.—

14 (1) IN GENERAL.—The Council shall develop a
15 National Invasive Species Management Plan that de-
16 tails and recommends performance-oriented goals
17 and specific measures of success for carrying out
18 each of the Federal agency activities related to
19 invasive species.

20 (2) DEVELOPMENT PROCESS.—The National
21 Management Plan shall be developed through a pub-
22 lic process and in consultation with Federal agen-
23 cies, appropriate State and local entities, and other
24 appropriate stakeholders.

1 (3) CONTENTS.—The National Management
2 Plan shall include recommendations of effective,
3 cost-efficient, environmentally sound, and science-
4 based approaches for the following:

5 (A) Prevention of the introduction of
6 invasive species, including approaches for iden-
7 tifying pathways by which invasive species are
8 introduced and for minimizing the risk of intro-
9 ductions via those pathways. Recommended ap-
10 proaches under this subparagraph shall provide
11 for—

12 (i) a process to evaluate risks associ-
13 ated with the introduction and spread of
14 invasive species; and

15 (ii) a coordinated and systematic risk-
16 based process to identify, monitor, and
17 interdict pathways that may be involved in
18 the introduction of invasive species.

19 (B) Cooperating with other nations to in-
20 crease their capacity to control their invasive
21 species and to prevent the spread of invasive
22 species across international borders.

23 (C) Rapidly detecting and responding to
24 incipient invasions of invasive species.

1 (D) Managing new and established popu-
2 lations of invasive species by eradicating them
3 or controlling their spread.

4 (E) Accurately and reliably monitoring new
5 and established populations of invasive species.

6 (F) Restoring native species and habitat
7 conditions in ecosystems that have been invaded
8 by invasive species.

9 (G) Evaluating and documenting the im-
10 pacts of invasive species on the economy, the
11 environment, and human health.

12 (H) Conducting research on the matters
13 referred to in subparagraphs (A) through (F).

14 (I) Developing technologies to prevent the
15 introduction and provide for the management of
16 invasive species.

17 (J) Promoting public education on invasive
18 species and the means to address them.

19 (4) IDENTIFICATION OF NEEDED PERSONNEL,
20 ETC.—The National Management Plan shall identify
21 the personnel, other resources, and additional levels
22 of coordination needed to achieve the goals included
23 in the plan.

24 (b) EXISTING PLAN.—The Management Plan of the
25 National Invasive Species Council adopted in 2001 shall

1 be treated as the National Management Plan required
2 under subsection (a) until the date of the issuance of the
3 National Management plan in accordance with subsection
4 (c).

5 (c) ISSUANCE AND UPDATE OF NATIONAL MANAGE-
6 MENT PLAN.—The Council shall—

7 (1) issue the National Management Plan re-
8 quired under subsection (a) by not later than De-
9 cember 31, 2007;

10 (2) update the National Management Plan by
11 not later than December 31 biennially; and

12 (3) concurrently with the process of updating
13 the National Management Plan, evaluate and report
14 to the Congress on success in achieving the goals set
15 forth in the National Management Plan.

16 (d) AGENCY REPORTS.—Within 18 months after the
17 date of the issuance of any edition of the National Man-
18 agement Plan that recommends action by a Federal agen-
19 cy, the head of such agency shall report to the Congress
20 any of such actions that the agency has not taken, with
21 an explanation of why the action is not feasible.

22 **SEC. 166. INVASIVE SPECIES ADVISORY COMMITTEE.**

23 (a) IN GENERAL.—The Council shall have an advi-
24 sory committee to provide information and advice for con-
25 sideration by the Council, which shall be known as the

1 Invasive Species Advisory Committee. Except as otherwise
2 provided in this section, the advisory committee shall be
3 organized, perform the functions, and have the authorities
4 specified in the charter for such advisory committee signed
5 by the Secretary of the Interior on October 30, 2001.

6 (b) APPOINTMENT.—Members of the advisory com-
7 mittee shall be appointed by the chair of the Council, after
8 consultation with the other members of the Council, from
9 among individuals representing stakeholders with respect
10 to Federal programs for minimizing the economic, ecologi-
11 cal, and human health impacts that invasive species cause.

12 (c) FUNCTIONS.—In addition to the functions speci-
13 fied in the charter referred to in subsection (a), the advi-
14 sory committee shall recommend to the Council plans and
15 actions at local, tribal, State, regional, and ecosystem-
16 based levels to achieve the goals of the National Manage-
17 ment Plan required under section 5.

18 (d) CONTINUING OPERATION OF EXISTING COM-
19 MITTEE.—Any advisory committee appointed before the
20 date of the enactment of this Act pursuant to the charter
21 referred to in subsection (a) may continue in effect under
22 this section.

23 **SEC. 167. BUDGET CROSSCUT.**

24 The Director of the Office of Management and Budg-
25 et shall prepare and submit to the Congress and the Coun-

1 cil, by not later than March 31, 2006, and of each year
2 thereafter, a budget analysis and summary of all Federal
3 programs relating to invasive species.

4 **SEC. 168. DEFINITIONS.**

5 In this Act:

6 (1) COUNCIL.—The term “Council” means the
7 National Invasive Species Council established by sec-
8 tion 3(a).

9 (2) INVASIVE SPECIES.—The term “invasive
10 species” means a species—

11 (A) that is nonnative to the ecosystem
12 under consideration; and

13 (B) the introduction of which causes or
14 may cause harm to the economy, the environ-
15 ment, or human health.

16 (3) NATIONAL MANAGEMENT PLAN.—The term
17 “National Management Plan” means the National
18 Invasive Species Management Plan developed by the
19 Council under section 5(a).

20 (4) SPECIES.—The term “species” means a cat-
21 egory of taxonomic classification ranking below a
22 genus or subgenus and consisting of related orga-
23 nisms capable of interbreeding.

1 **SEC. 169. EXISTING EXECUTIVE ORDER.**

2 Executive Order 13112, dated February 3, 1999,
3 shall have no force or effect.

4 **SEC. 170. AUTHORIZATION OF APPROPRIATIONS.**

5 There is authorized to be appropriated to carry out
6 this Act \$2,000,000 for each of fiscal years 2006 through
7 2008.

8 **TITLE II—HABITAT AND SPECIES**

9 **SEC. 201. DEFINITIONS.**

10 Section 1004 of the Great Lakes Fish and Wildlife
11 Restoration Act of 1990 (16 U.S.C. 941b) is amended—

12 (1) by striking paragraphs (1), (4), and (12);

13 (2) by redesignating paragraphs (2), (3), (5),
14 (6), (7), (8), (9), (10), (11), (13), and (14) as para-
15 graphs (1), (2), (3), (4), (5), (6), (7), (9), (10),
16 (11), and (12), respectively;

17 (3) in paragraph (4) (as redesignated by para-
18 graph (2)), by inserting before the semicolon at the
19 end the following: “, and that has Great Lakes fish
20 and wildlife management authority in the Great
21 Lakes Basin”; and

22 (4) by inserting after paragraph (7) (as redesign-
23 nated by paragraph (2)) the following:

24 “(8) the term ‘regional project’ means author-
25 ized activities of the United States Fish and Wildlife
26 Service related to fish and wildlife resource protec-

1 tion, restoration, maintenance, and enhancement
2 that benefit the Great Lakes basin;”.

3 **SEC. 202. IDENTIFICATION, REVIEW, AND IMPLEMENTA-**
4 **TION OF PROPOSALS.**

5 Section 1005 of the Great Lakes Fish and Wildlife
6 Restoration Act of 1990 (16 U.S.C. 941c) is amended to
7 read as follows:

8 **“SEC. 1005. IDENTIFICATION, REVIEW, AND IMPLEMENTA-**
9 **TION OF PROPOSALS AND REGIONAL**
10 **PROJECTS.**

11 “(a) IN GENERAL.—Subject to subsection (b)(2), the
12 Director—

13 “(1) shall encourage the development and, sub-
14 ject to the availability of appropriations, the imple-
15 mentation of fish and wildlife restoration proposals
16 and regional projects; and

17 “(2) in cooperation with the State Directors
18 and Indian Tribes, shall identify, develop, and, sub-
19 ject to the availability of appropriations, implement
20 regional projects in the Great Lakes Basin to be ad-
21 ministered by Director in accordance with this sec-
22 tion.

23 “(b) IDENTIFICATION OF PROPOSALS AND REGIONAL
24 PROJECTS.—

1 “(1) REQUEST BY THE DIRECTOR.—The Direc-
2 tor shall annually request that State Directors and
3 Indian Tribes, in cooperation or partnership with
4 other interested entities and in accordance with sub-
5 section (a), submit proposals or regional projects for
6 the restoration of fish and wildlife resources.

7 “(2) REQUIREMENTS FOR PROPOSALS AND RE-
8 GIONAL PROJECTS.—A proposal or regional project
9 under paragraph (1) shall be—

10 “(A) submitted in the manner and form
11 prescribed by the Director; and

12 “(B) consistent with—

13 “(i) the goals of the Great Lakes
14 Water Quality Agreement, as amended;

15 “(ii) the 1954 Great Lakes Fisheries
16 Convention;

17 “(iii) the 1980 Joint Strategic Plan
18 for Management of Great Lakes Fisheries,
19 as revised in 1997, and Fish Community
20 Objectives for each Great Lake and con-
21 necting water as established under the
22 Joint Strategic Plan;

23 “(iv) the Nonindigenous Aquatic Nui-
24 sance Prevention and Control Act of 1990
25 (16 U.S.C. 4701 et seq.);

1 “(v) the North American Waterfowl
2 Management Plan and joint ventures es-
3 tablished under the plan; and

4 “(vi) the strategies outlined through
5 the Great Lakes Regional Collaboration
6 authorized under Executive Order 13340
7 (69 Fed. Reg. 29043; relating to the Great
8 Lakes Interagency Task Force).

9 “(3) SEA LAMPREY AUTHORITY.—The Great
10 Lakes Fishery Commission shall retain authority
11 and responsibility to formulate and implement a
12 comprehensive program to eradicate or minimize sea
13 lamprey populations in the Great Lakes Basin.

14 “(c) REVIEW OF PROPOSALS.—

15 “(1) ESTABLISHMENT OF COMMITTEE.—There
16 is established the Great Lakes Fish and Wildlife
17 Restoration Proposal Review Committee, which shall
18 operate under the guidance of the United States
19 Fish and Wildlife Service.

20 “(2) MEMBERSHIP AND APPOINTMENT.—

21 “(A) IN GENERAL.—The Committee shall
22 consist of 2 representatives of each of the State
23 Directors and Indian Tribes, of whom—

24 “(i) 1 representative shall be the indi-
25 vidual appointed by the State Director or

1 Indian Tribe to the Council of Lake Com-
2 mittees of the Great Lakes Fishery Com-
3 mission; and

4 “(ii) 1 representative shall have exper-
5 tise in wildlife management.

6 “(B) APPOINTMENTS.—Each representa-
7 tive shall serve at the pleasure of the appointing
8 State Director or Tribal Chair.

9 “(C) OBSERVER.—The Great Lakes Coor-
10 dinator of the United States Fish and Wildlife
11 Service shall participate as an observer of the
12 Committee.

13 “(D) RECUSAL.—A member of the Com-
14 mittee shall recuse himself or herself from con-
15 sideration of proposals that the member, or the
16 entity that the member represents, has sub-
17 mitted.

18 “(3) FUNCTIONS.—The Committee shall—

19 “(A) meet at least annually;

20 “(B) review proposals and special projects
21 developed in accordance with subsection (b) to
22 assess the effectiveness and appropriateness of
23 the proposals and special projects in fulfilling
24 the purposes of this title; and

1 “(C) recommend to the Director any of
2 those proposals and special projects that should
3 be funded and implemented under this section.

4 “(d) IMPLEMENTATION OF PROPOSALS AND RE-
5 REGIONAL PROJECTS.—

6 “(1) IN GENERAL.—After considering rec-
7 ommendations of the Committee and the goals speci-
8 fied in section 1006, the Director shall—

9 “(A) select proposals and regional projects
10 to be implemented; and

11 “(B) subject to the availability of appro-
12 priations and subsection (e), fund implementa-
13 tion of the proposals and regional projects.

14 “(2) SELECTION CRITERIA.—In selecting and
15 funding proposals and regional projects, the Director
16 shall take into account the effectiveness and appro-
17 priateness of the proposals and regional projects in
18 fulfilling the purposes of other laws applicable to
19 restoration of the fish and wildlife resources and
20 habitat of the Great Lakes Basin.

21 “(e) COST SHARING.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graphs (2) and (4), not less than 25 percent of the
24 cost of implementing a proposal selected under sub-
25 section (d) (excluding the cost of establishing sea

1 lamprey barriers) shall be paid in cash or in-kind
2 contributions by non-Federal sources.

3 “(2) REGIONAL PROJECTS.—Regional projects
4 selected under subsection (d) shall be exempt from
5 cost sharing if the Director determines that the au-
6 thorization for the project does not require a non-
7 Federal cost-share.

8 “(3) EXCLUSION OF FEDERAL FUNDS FROM
9 NON-FEDERAL SHARE.—The Director may not con-
10 sider the expenditure, directly or indirectly, of Fed-
11 eral funds received by any entity to be a contribution
12 by a non-Federal source for purposes of this sub-
13 section.

14 “(4) EFFECT ON CERTAIN INDIAN TRIBES.—
15 Nothing in this subsection affects an Indian tribe af-
16 fected by an alternative applicable cost sharing re-
17 quirement under the Indian Self-Determination and
18 Education Assistance Act (25 U.S.C. 450 et seq.).”.

19 **SEC. 203. GOALS OF UNITED STATES FISH AND WILDLIFE**
20 **SERVICE PROGRAMS RELATED TO GREAT**
21 **LAKES FISH AND WILDLIFE RESOURCES.**

22 Section 1006 of the Great Lakes Fish and Wildlife
23 Restoration Act of 1990 (16 U.S.C. 941d) is amended by
24 striking paragraph (1) and inserting the following:

1 “(1) Restoring and maintaining self-sustaining
2 fish and wildlife resources.”.

3 **SEC. 204. ESTABLISHMENT OF OFFICES.**

4 Section 1007 of the Great Lakes Fish and Wildlife
5 Restoration Act of 1990 (16 U.S.C. 941e) is amended—

6 (1) by striking subsection (a) and inserting the
7 following:

8 “(a) GREAT LAKES COORDINATION OFFICE.—

9 “(1) IN GENERAL.—The Director shall establish
10 a centrally located facility for the coordination of all
11 United States Fish and Wildlife Service activities in
12 the Great Lakes Basin, to be known as the ‘Great
13 Lakes Coordination Office’.

14 “(2) FUNCTIONAL RESPONSIBILITIES.—The
15 functional responsibilities of the Great Lakes Co-
16 ordination Office shall include—

17 “(A) intra- and interagency coordination;

18 “(B) information distribution; and

19 “(C) public outreach.

20 “(3) REQUIREMENTS.—The Great Lakes Co-
21 ordination Office shall—

22 “(A) ensure that information acquired
23 under this Act is made available to the public;

24 and

1 “(B) report to the Director of Region 3,
2 Great Lakes Big Rivers.”;

3 (2) in subsection (b)—

4 (A) in the first sentence, by striking “The
5 Director” and inserting the following:

6 “(1) IN GENERAL.—The Director”;

7 (B) in the second sentence, by striking
8 “The office” and inserting the following:

9 “(2) NAME AND LOCATION.—The office”; and

10 (C) by adding at the end the following:

11 “(3) RESPONSIBILITIES.—The responsibilities
12 of the Lower Great Lakes Fishery Resources Office
13 shall include operational activities of the United
14 States Fish and Wildlife Service related to fishery
15 resource protection, restoration, maintenance, and
16 enhancement in the Lower Great Lakes.”; and

17 (3) in subsection (c)—

18 (A) in the first sentence, by striking “The
19 Director” and inserting the following:

20 “(1) IN GENERAL.—The Director”;

21 (B) in the second sentence, by striking
22 “The office” and inserting the following:

23 “(2) NAME AND LOCATION.—The office”; and

24 (C) by adding at the end the following:

1 “(3) RESPONSIBILITIES.—The responsibilities
2 of the Upper Great Lakes Fishery Resources Offices
3 shall include operational activities of the United
4 States Fish and Wildlife Service related to fishery
5 resource protection, restoration, maintenance, and
6 enhancement in the Upper Great Lakes.”.

7 **SEC. 205. REPORTS.**

8 Section 1008 of the Great Lakes Fish and Wildlife
9 Restoration Act of 1990 (16 U.S.C. 941f) is amended to
10 read as follows:

11 **“SEC. 1008. REPORTS.**

12 “(a) IN GENERAL.—Not later than December 31,
13 2011, the Director shall submit to the Committee on Re-
14 sources of the House of Representatives and the Com-
15 mittee on Environment and Public Works of the Senate
16 a report that describes—

17 “(1) actions taken to solicit and review pro-
18 posals under section 1005;

19 “(2) the results of proposals implemented under
20 section 1005; and

21 “(3) progress toward the accomplishment of the
22 goals specified in section 1006.

23 “(b) ANNUAL REPORTS.—Not later than December
24 31 of each of fiscal years 2007 through 2012, the Director

1 shall submit to the 8 Great Lakes States and Indian
2 Tribes a report that describes—

3 “(1) actions taken to solicit and review pro-
4 posals under section 1005;

5 “(2) the results of proposals implemented under
6 section 1005;

7 “(3) progress toward the accomplishment of the
8 goals specified in section 1006;

9 “(4) the priorities proposed for funding in the
10 annual budget process under this title; and

11 “(5) actions taken in support of the rec-
12 ommendations of the Great Lakes Regional Collabo-
13 ration authorized under Executive Order 13340 (69
14 Fed. Reg. 29043; relating to the Great Lakes Inter-
15 agency Task Force).

16 “(c) STUDY.—

17 “(1) IN GENERAL.—Not later than December
18 16, 2009, the Director, in consultation with State
19 fish and wildlife resource management agencies, In-
20 dian Tribes, and the Great Lakes Fishery Commis-
21 sion, shall—

22 “(A) conduct a comprehensive study of the
23 status, and the assessment, management, and
24 restoration needs, of the fish and wildlife re-
25 sources of the Great Lakes Basin, including a

1 comprehensive review of the accomplishments
2 that have been achieved under this title through
3 fiscal year 2008; and

4 “(B) submit to the President of the Senate
5 and the Speaker of the House of Representa-
6 tives—

7 “(i) the study described in subpara-
8 graph (A); and

9 “(ii) a comprehensive report on the
10 findings of the study.

11 “(d) REPORT.—Not later than June 30, 2006, the
12 Director shall submit to the Committee on Energy and
13 Natural Resources of the Senate and the Committee on
14 Resources of the House of Representatives the 2002 re-
15 port required under this section as in effect on the day
16 before the date of enactment of the Great Lakes Fish and
17 Wildlife Restoration Act of 2006.”.

18 **SEC. 206. AUTHORIZATION OF APPROPRIATIONS.**

19 Section 1009 of the Great Lakes Fish and Wildlife
20 Restoration Act of 1990 (16 U.S.C. 941g) is amended to
21 read as follows:

22 **“SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.**

23 “There are authorized to be appropriated to the Di-
24 rector for each of fiscal years 2007 through 2012—

25 “(1) \$12,000,000, of which—

1 “(A) \$11,400,000 shall be allocated to im-
2 plement fish and wildlife restoration proposals
3 as selected by the Director under section
4 1005(e); and

5 “(B) the lesser of 5 percent or \$600,000
6 shall be allocated to the United States Fish and
7 Wildlife Service to cover costs incurred in ad-
8 ministering the proposals by any entity;

9 “(2) \$6,000,000, which shall be allocated to im-
10 plement regional projects by the United States Fish
11 and Wildlife Service, as selected by the Director
12 under section 1005(e); and

13 “(3) \$2,000,000, which shall be allocated for
14 the activities of the Great Lake Coordination Office
15 in East Lansing, Michigan, of the Upper Great
16 Lakes Fishery Resources Office, and the Lower
17 Great Lakes Fishery Resources Office under section
18 1007.”.

19 **TITLE III—COASTAL HEALTH**

20 **SEC. 301. TECHNICAL ASSISTANCE.**

21 (a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
22 TREATMENT WORKS.—Section 104(b) of the Federal
23 Water Pollution Control Act (33 U.S.C. 1254(b)) is
24 amended—

1 (1) by redesignating paragraphs (1) through
2 (7) as subparagraphs (A) through (G), respectively,
3 and indenting the subparagraphs appropriately;

4 (2) by striking “(b) In carrying out” and in-
5 serting the following:

6 “(b) AUTHORIZED ACTIVITIES.—

7 “(1) IN GENERAL.—In carrying out”;

8 (3) in paragraph (1) (as designated by para-
9 graph (2))—

10 (A) by striking “paragraph (1) of sub-
11 section (a)” each place it appears and inserting
12 “subsection (a)(1)”;

13 (B) in subparagraph (C) (as redesignated
14 by paragraph (1)), by striking “of this section”;

15 (C) in subparagraph (F) (as redesignated
16 by paragraph (1)), by striking “thereof; and”
17 and inserting “of the effects;”;

18 (D) in subparagraph (G) (as redesignated
19 by paragraph (1)), by striking the period at the
20 end and inserting “; and”; and

21 (E) by adding at the end the following:

22 “(H) make grants to nonprofit organiza-
23 tions—

24 “(i) to provide technical assistance to
25 rural and small municipalities for the pur-

1 pose of assisting, in consultation with the
2 State in which the assistance is provided,
3 the municipalities in the planning, develop-
4 ment, and acquisition of financing for
5 wastewater infrastructure assistance;

6 “(ii) to capitalize revolving loan funds
7 for the purpose of providing loans, in con-
8 sultation with the State in which the as-
9 sistance is provided and in accordance with
10 paragraph (2), to rural and small munici-
11 palities for—

12 “(I) predevelopment costs associ-
13 ated with wastewater infrastructure
14 projects; and

15 “(II) short-term costs incurred
16 for the replacement of equipment that
17 is not part of a regular operation or
18 maintenance activity for an existing
19 wastewater system;

20 “(iii) to provide technical assistance
21 and training for rural and small publicly-
22 owned treatment works and decentralized
23 wastewater treatment systems to enable
24 the treatment works and systems to—

25 “(I) protect water quality; and

1 “(II) achieve and maintain com-
2 pliance with the requirements of this
3 Act; and

4 “(iv) to disseminate information to
5 rural and small municipalities and munici-
6 palities that meet the affordability criteria
7 established by the State in which the mu-
8 nicipality is located under section 603(i)(2)
9 with respect to planning, design, construc-
10 tion, and operation of publicly-owned treat-
11 ment works and decentralized wastewater
12 treatment systems.”; and

13 (4) by adding at the end the following:

14 “(2) LOAN CONDITIONS.—

15 “(A) IN GENERAL.—A loan provided under
16 paragraph (1)(H)(ii) shall—

17 “(i) be provided at a below-market in-
18 terest rate;

19 “(ii) be provided in an amount not to
20 exceed \$100,000; and

21 “(iii) extend for a term of not more
22 than 10 years.

23 “(B) REPAYMENT.—Repayment of a loan
24 provided under paragraph (1)(H)(ii) shall be
25 credited to the water pollution control revolving

1 loan fund of the appropriate State under sec-
2 tion 603.”.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
4 104(u) of the Federal Water Pollution Control Act (33
5 U.S.C. 1254(u)) is amended—

6 (1) by striking “(u) There is authorized to be
7 appropriated (1) not” and inserting the following:

8 “(u) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated—

10 “(1) not”;

11 (2) in paragraph (1), by striking “provisions;
12 (2) not” and inserting the following:

13 “provisions;

14 “(2) not”;

15 (3) in paragraph (2), by striking “subsection
16 (g)(1); (3) not” and inserting the following:

17 “subsection (g)(1);

18 “(3) not”;

19 (4) in paragraph (3), by striking “subsection
20 (g)(2); (4) not” and inserting the following:

21 “subsection (g)(2);

22 “(4) not”;

23 (5) in paragraph (4), by striking “subsection
24 (p); (5) not” and inserting the following:

25 “subsection (p);

1 “(5) not”;

2 (6) in paragraph (5), by striking “subsection
3 (r); and (6) not” and inserting the following:

4 “subsection (r);

5 “(6) not”;

6 (7) in paragraph (6), by striking the period at
7 the end and inserting “; and”; and

8 (8) by adding at the end the following:

9 “(7) for each of fiscal years 2007 through
10 2011, not more than \$75,000,000 to carry out sub-
11 paragraphs (C) and (H) of subsection (b)(1), of
12 which, during any fiscal year—

13 “(A) not less than 20 percent shall be used
14 to carry out subsection (b)(1)(H); and

15 “(B) not more than $\frac{1}{3}$ of the amount used
16 under subparagraph (A) shall be used to carry
17 out subsection (b)(1)(H)(ii).”.

18 (c) COMPETITIVE PROCEDURES FOR AWARDING
19 GRANTS.—Section 104 of the Federal Water Pollution
20 Control Act (33 U.S.C. 1254) is amended by adding at
21 the end the following:

22 “(w) COMPETITIVE PROCEDURES FOR AWARDING
23 GRANTS.—The Administrator shall establish procedures
24 that promote competition and openness, to the maximum
25 extent practicable, in the award of grants to nonprofit pri-

1 vate agencies, institutions, and organizations under this
2 section.”.

3 **SEC. 302. SEWER OVERFLOW CONTROL GRANTS.**

4 Section 221 of the Federal Water Pollution Control
5 Act (33 U.S.C. 1301) is amended by striking subsection
6 (c) and inserting the following:

7 “(c) DEFINITION OF FINANCIALLY DISTRESSED
8 COMMUNITY.—A financially distressed community re-
9 ferred to in subsection (b) is a community that meets the
10 affordability criteria established by the State in which the
11 community is located under section 603(i)(2).”.

12 **SEC. 303. WATER POLLUTION CONTROL REVOLVING LOAN
13 FUNDS.**

14 (a) EXTENDED PAYMENT PERIOD.—Section
15 603(d)(1) of the Federal Water Pollution Control Act (33
16 U.S.C. 1383(d)(1)) is amended—

17 (1) in subparagraph (A), by striking “20
18 years;” and inserting the following:

19 “the lesser of—

20 “(i) the design life of the project to be
21 financed using the proceeds of the loan; or

22 “(ii) 30 years;” and

23 (2) in subparagraph (B), by striking “not later
24 than 20 years after project completion” and insert-
25 ing “on the expiration of the term of the loan”.

1 (b) TECHNICAL AND PLANNING ASSISTANCE FOR
2 SMALL SYSTEMS.—Section 603(d) of the Federal Water
3 Pollution Control Act (33 U.S.C. 1383(d)) is amended—

4 (1) in paragraph (6), by striking “and” at the
5 end;

6 (2) in paragraph (7), by striking the period at
7 the end and inserting “; and”; and

8 (3) by adding at the end the following:

9 “(8) with respect to municipalities and inter-
10 municipal, interstate, and State agencies seeking as-
11 sistance under this title that serve a population of
12 20,000 or fewer, to provide to owners and operators
13 of small treatment works, in an amount not to ex-
14 ceed 2 percent of the amount of total grant awards
15 made under this title—

16 “(A) technical and planning assistance;

17 and

18 “(B) assistance relating to—

19 “(i) financial management;

20 “(ii) user fee analysis;

21 “(iii) budgeting;

22 “(iv) capital improvement planning;

23 “(v) facility operation and mainte-
24 nance;

25 “(vi) repair schedules; and

1 “(vii) other activities to improve
2 wastewater treatment plant management
3 and operations.”.

4 (c) ADDITIONAL SUBSIDIZATION.—Section 603 of the
5 Federal Water Pollution Control Act (33 U.S.C. 1383) is
6 amended by adding at the end the following:

7 “(i) ADDITIONAL SUBSIDIZATION.—

8 “(1) IN GENERAL.—In any case in which a
9 State provides assistance to a municipality or an
10 intermunicipal, interstate, or State agency under
11 subsection (d), the State may provide additional sub-
12 sidization, including forgiveness of principal and
13 negative interest loans—

14 “(A) to benefit a municipality that—

15 “(i) meets the affordability criteria of
16 the State established under paragraph (2);
17 or

18 “(ii) does not meet the criteria estab-
19 lished under paragraph (2), if the munici-
20 pality—

21 “(I) seeks additional subsidiza-
22 tion to benefit individual ratepayers in
23 the residential user rate class;

24 “(II) demonstrates to the State
25 that the ratepayers described in sub-

1 clause (I) will experience a significant
2 hardship on the increase in rates re-
3 quired to finance the project or activ-
4 ity for which the assistance is sought;
5 and

6 “(III) ensures, as part of an
7 agreement between the State and the
8 recipient, that the additional sub-
9 sidization provided under this para-
10 graph will be directed to those rate-
11 payers through a user charge rate sys-
12 tem (or another appropriate method);
13 and

14 “(B) to implement alternative processes,
15 materials, and techniques (including non-
16 structural protection of surface waters, new or
17 improved methods of waste treatment, and pol-
18 lutant trading) that may result in cost savings
19 or increased environmental benefit when com-
20 pared to standard processes, materials, and
21 techniques.

22 “(2) AFFORDABILITY CRITERIA.—

23 “(A) ESTABLISHMENT.—

24 “(i) IN GENERAL.—Not later than
25 September 30, 2006, after providing notice

1 and an opportunity for public comment, a
2 State shall establish affordability criteria
3 to assist the State in identifying munici-
4 palities that would experience a significant
5 hardship on the increase in rates required
6 to finance a project or activity that is eligi-
7 ble for assistance under subsection (c)(1) if
8 additional subsidization under paragraph
9 (1) is not provided.

10 “(ii) FACTORS FOR CONSIDER-
11 ATION.—In establishing criteria under
12 clause (i), a State shall take into consider-
13 ation—

14 “(I) income data;

15 “(II) population trends; and

16 “(III) any other data the State
17 determines to be relevant.

18 “(B) EXISTING CRITERIA.—If a State has
19 established, after providing notice and an op-
20 portunity for public comment, criteria in ac-
21 cordance with subparagraph (A) before the date
22 of enactment of this subsection, the criteria
23 shall be considered to be affordability criteria
24 established under that subparagraph.

1 “(C) INFORMATION TO ASSIST STATES.—

2 The Administrator may publish information to
3 assist States in establishing affordability cri-
4 teria under subparagraph (A).

5 “(3) PRIORITY.—In providing assistance under
6 this subsection, a State may give priority to any
7 owner or operator of a project or activity that—

8 “(A) is eligible to receive funding under
9 subsection (c)(1); and

10 “(B) is located in a municipality that
11 meets the affordability criteria established
12 under paragraph (2).

13 “(4) SET-ASIDE.—

14 “(A) IN GENERAL.—For any fiscal year
15 during which more than \$1,400,000,000 is
16 made available to the Administrator to carry
17 out this title, a State shall provide additional
18 subsidization under this subsection in the
19 amount described in subparagraph (B) to enti-
20 ties described in paragraph (1) for projects and
21 activities identified in the intended use plan of
22 the State under section 606(c) on receipt of an
23 application for additional subsidization.

1 “(B) AMOUNT.—The amount referred to in
2 subparagraph (A) is an amount not less than
3 25 percent of the difference between—

4 “(i) the total amount that would have
5 been allotted to the State under section
6 604 during the appropriate fiscal year, if
7 the amount made available to the Adminis-
8 trator to carry out this title during that
9 fiscal year was equal to \$1,400,000,000;
10 and

11 “(ii) the total amount allotted to the
12 State under section 604 for that fiscal
13 year.

14 “(5) LIMITATION.—The total amount of addi-
15 tional subsidization provided by a State under this
16 subsection shall not exceed 30 percent of the total
17 amount of capitalization grants received by the State
18 under this title for fiscal years beginning after Sep-
19 tember 30, 2006.”.

20 **SEC. 304. ALLOTMENT OF FUNDS.**

21 (a) IN GENERAL.—Section 604 of the Federal Water
22 Pollution Control Act (33 U.S.C. 1384) is amended by
23 striking subsection (a) and inserting the following:

24 “(a) ALLOTMENTS.—

1 “(1) FISCAL YEARS 2007 AND 2008.—Amounts
2 made available to carry out this title for fiscal years
3 2007 and 2008 shall be allotted by the Adminis-
4 trator in accordance with the formula used to cal-
5 culate allotments for fiscal year 2006.

6 “(2) FISCAL YEAR 2009 AND THEREAFTER.—
7 Amounts made available to carry out this title for
8 fiscal year 2009 and each fiscal year thereafter shall
9 be allotted by the Administrator during each fiscal
10 year—

11 “(A) for amounts up to \$1,350,000,000, in
12 accordance with the formula used to calculate
13 allotments for fiscal year 2006; and

14 “(B) for any amount in excess of
15 \$1,350,000,000, in accordance with the formula
16 developed by the Administrator under sub-
17 section (d).”.

18 (b) PLANNING ASSISTANCE.—Section 604(b) of the
19 Federal Water Pollution Control Act (33 U.S.C. 1384(b))
20 is amended by striking “1 percent” and inserting “2 per-
21 cent”.

22 (c) FORMULA.—Section 604 of the Federal Water
23 Pollution Control Act (33 U.S.C. 1384) is amended by
24 adding at the end the following:

1 “(d) FORMULA BASED ON WATER QUALITY
 2 NEEDS.—Not later than September 30, 2006, after pro-
 3 viding notice and an opportunity for public comment, the
 4 Administrator shall publish an allotment formula for pur-
 5 poses of subsection (a)(2)(B) based on water quality
 6 needs, to be determined by the Administrator in accord-
 7 ance with the most recent survey of needs developed by
 8 the Administrator under section 516.”.

9 **SEC. 305. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 607 of the Federal Water Pollution Control
 11 Act (33 U.S.C. 1387) is amended to read as follows:

12 **“SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

13 “There are authorized to be appropriated to carry out
 14 this title—

15 “(1) \$2,000,000,000 for fiscal year 2007;

16 “(2) \$3,000,000,000 for fiscal year 2008;

17 “(3) \$4,000,000,000 for fiscal year 2009;

18 “(4) \$5,000,000,000 for fiscal year 2010; and

19 “(5) \$6,000,000,000 for fiscal year 2011.”.

20 **TITLE IV—AREAS OF CONCERN**

21 **SEC. 401. GREAT LAKES.**

22 (a) REMEDIATION OF SEDIMENT CONTAMINATION IN
 23 AREAS OF CONCERN.—Section 118(c)(12)(H) of the Fed-
 24 eral Water Pollution Control Act (33 U.S.C.

1 1268(c)(12)(H)) is amended by striking clause (i) and in-
2 serting the following:

3 “(i) IN GENERAL.—In addition to
4 other amounts authorized to be appro-
5 priated to carry out this section, there is
6 authorized to be appropriated to carry out
7 this paragraph \$150,000,000 for each of
8 fiscal years 2007 through 2012.”.

9 (b) NON-FEDERAL SHARE.—Section 118(c)(12) of
10 the Federal Water Pollution Control Act (33 U.S.C.
11 1268(c)(12)) is amended—

12 (1) in subparagraph (E), by adding at the end
13 the following:

14 “(v) PAYMENT AND RETENTION OF
15 NON-FEDERAL SHARE.—The non-Federal
16 sponsor for a project under this paragraph
17 may pay to the Administrator, for reten-
18 tion and use by the Administrator in car-
19 rying out the project, the non-Federal
20 share of the cost of the project.”;

21 (2) by redesignating subparagraph (H) (as
22 amended by subsection (a)) as subparagraph (I);
23 and

24 (3) by inserting after subparagraph (G) the fol-
25 lowing:

1 “(H) ADVANCE PAYMENT AND REIM-
 2 BURSEMENT OF COSTS.—The Administrator,
 3 acting through the Program Office, may enter
 4 into an agreement with a non-Federal sponsor
 5 to carry out a project under this paragraph
 6 under which the non-Federal sponsor may, as
 7 appropriate—

8 “(i) pay in advance the non-Federal
 9 share of the cost of the project; and

10 “(ii) receive from the Administrator
 11 reimbursement for amounts (other than
 12 the non-Federal share) expended by the
 13 non-Federal sponsor for the project.”.

14 **TITLE V—CLEAN WATER**
 15 **AUTHORITY**

16 **SEC. 501. DEFINITION OF WATERS OF THE UNITED STATES.**

17 Section 502 of the Federal Water Pollution Control
 18 Act (33 U.S.C. 1362) is amended—

19 (1) by striking paragraph (7);

20 (2) by redesignating paragraphs (8) through
 21 (23) as paragraphs (7) through (22), respectively;

22 and

23 (3) by adding at the end the following:

24 “(23) WATERS OF THE UNITED STATES.—The
 25 term ‘waters of the United States’ means all waters

1 subject to the ebb and flow of the tide, the territorial
2 seas, and all interstate and intrastate waters and
3 their tributaries, including lakes, rivers, streams (in-
4 cluding intermittent streams), mudflats, sandflats,
5 wetlands, sloughs, prairie potholes, wet meadows,
6 playa lakes, natural ponds, and all impoundments of
7 the foregoing, to the fullest extent that these waters,
8 or activities affecting these waters, are subject to the
9 legislative power of Congress under the Constitu-
10 tion.”.

11 **SEC. 502. CONFORMING AMENDMENTS.**

12 The Federal Water Pollution Control Act (33 U.S.C.
13 1251 et seq.) is amended—

14 (1) by striking “navigable waters of the United
15 States” each place it appears and inserting “waters
16 of the United States”;

17 (2) in section 304(l)(1) by striking “NAVIGABLE
18 WATERS” in the heading and inserting “WATERS OF
19 THE UNITED STATES”; and

20 (3) by striking “navigable waters” each place it
21 appears and inserting “waters of the United
22 States”.

1 **TITLE VI—TOXIC SUBSTANCES**

2 **SEC. 601. MERCURY REDUCTION GRANTS.**

3 Section 118(c) of the Federal Water Pollution Con-
4 trol Act (33 U.S.C. 1268(c)) is amended by adding at the
5 end the following:

6 “(14) MERCURY REDUCTION GRANTS.—

7 “(A) IN GENERAL.—The Program Office
8 shall provide grants to Great Lakes States and
9 Indian tribes in Great Lakes States to carry
10 out projects to reduce the quantity of mercury
11 in the Great Lakes.

12 “(B) APPLICATION.—Each Great Lake
13 State or Indian tribe that seeks a grant under
14 this paragraph shall submit an application to
15 the Program Office at such time, in such man-
16 ner, and accompanied by or containing any in-
17 formation that the Program Office may require.

18 “(C) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There is authorized to be appropriated
20 to carry out this paragraph \$10,000,000 for
21 each of fiscal years 2007 through 2011.”.

1 **TITLE VII—INDICATORS AND**
2 **INFORMATION**
3 **Subtitle A—Research Program**

4 **SEC. 701. RESEARCH REAUTHORIZATIONS.**

5 Section 118 of the Federal Water Pollution Control
6 Act (33 U.S.C. 1268) is amended by striking subsection
7 (e) and inserting the following:

8 “(e) RESEARCH AND MANAGEMENT COORDINA-
9 TION.—

10 “(1) JOINT PLAN.—

11 “(A) IN GENERAL.—Not later than Sep-
12 tember 30 of each year, the Program Office,
13 the Research Office, and the Great Lakes
14 Science Center shall prepare and submit to the
15 Executive Committee of the Regional Collabora-
16 tion a joint research plan for the fiscal year
17 that begins in the following calendar year.

18 “(B) SUBMISSION TO CONGRESS.—The
19 President shall include the plan described in
20 subparagraph (A) in the annual budget of the
21 United States Government submitted to Con-
22 gress by the President.

23 “(2) CONTENTS OF PLAN.—Each plan prepared
24 under paragraph (1) shall—

1 “(A) identify all proposed research dedi-
2 cated to activities carried out under the Great
3 Lakes Water Quality Agreement and any other
4 applicable agreements and amendments;

5 “(B) include the assessment of the Re-
6 gional Collaboration of priorities for research
7 needed to fulfill the terms of those agreements;
8 and

9 “(C) identify all proposed research that
10 may be used to develop a comprehensive envi-
11 ronmental database for the Great Lakes System
12 and establish priorities for development of the
13 database.”.

14 **SEC. 702. GREAT LAKES SCIENCE CENTER.**

15 There is authorized to be appropriated to the Direc-
16 tor of the United States Geological Survey, for use by the
17 Great Lakes Science Center, to carry out research activi-
18 ties that advance scientific knowledge and provide sci-
19 entific information for restoring, enhancing, managing,
20 and protecting the living marine resources and habitats
21 in the Great Lakes basin ecosystem \$25,000,000 for each
22 of fiscal years 2007 through 2011.

1 **SEC. 703. GREAT LAKES ENVIRONMENTAL RESEARCH LAB-**
2 **ORATORY.**

3 (a) GRANTS.—Section 118(d)(6) of the Federal
4 Water Pollution Control Act (33 U.S.C. 1268(d)(6)) is
5 amended—

6 (1) striking “The Research Office” and insert-
7 ing the following:

8 “(A) IN GENERAL.—The Research Office”;
9 and

10 (2) by adding at the end the following:

11 “(B) GRANTS.—The National Oceanic and
12 Atmospheric Administration shall administer,
13 through its Center for Sponsored Coastal Ocean
14 Research, a program to award grants to aca-
15 demic institutions, State agencies, and other
16 appropriate groups. The program required
17 under this section shall be competitive, peer-re-
18 viewed, and merit-based.”.

19 (b) AUTHORIZATIONS OF APPROPRIATIONS.—Section
20 118 of the Federal Water Pollution Control Act (33
21 U.S.C. 1268) is amended by striking subsection (h) and
22 inserting the following:

23 “(h) AUTHORIZATIONS OF APPROPRIATIONS.—There
24 is authorized to be appropriated to carry out this section
25 \$80,000,000 for each of fiscal years 2007 through 2011,
26 of which, for each fiscal year—

1 “(1) \$40,000,000 shall be made available to the
2 Program Office; and

3 “(2) \$40,000,000 shall be made available to the
4 Great Lakes Environmental Research Laboratory of
5 which not less than \$15,000,000 shall be used for
6 extramural research grants under subsection
7 (d)(6)(B).”.

8 **Subtitle B—Ocean and Coastal** 9 **Observation System**

10 **SEC. 711. DEFINITIONS.**

11 In this Act:

12 (1) COUNCIL.—The term “Council” means the
13 National Ocean Research Leadership Council.

14 (2) GREAT LAKE.—The term “Great Lake”
15 means—

16 (A) Lake Erie;

17 (B) Lake Huron (including Lake Saint
18 Clair);

19 (C) Lake Michigan;

20 (D) Lake Ontario;

21 (E) Lake Superior; and

22 (F) the connecting channels of those
23 Lakes, including—

24 (i) the Saint Marys River;

25 (ii) the Saint Clair River;

- 1 (iii) the Detroit River;
- 2 (iv) the Niagara River; and
- 3 (v) the Saint Lawrence River to the
- 4 Canadian border.

5 (3) OBSERVING SYSTEM.—The term “observing

6 system” means the integrated coastal, ocean, and

7 Great Lakes observing system to be established by

8 the Committee under section 712(a).

9 (4) INTERAGENCY PROGRAM OFFICE.—The

10 term “interagency program office” means the office

11 established under section 712(d).

12 **SEC. 712. INTEGRATED OCEAN AND COASTAL OBSERVING**

13 **SYSTEM.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—The President, acting

16 through the Council, shall establish and maintain an

17 integrated system of ocean and coastal observations,

18 data communication and management, analysis,

19 modeling, research, education, and outreach de-

20 signed to provide data and information for the time-

21 ly detection and prediction of changes occurring in

22 the ocean, coastal, and Great Lakes environment

23 that impact the social, economic, and ecological sys-

24 tems of the United States.

1 (2) PURPOSES.—The observing system shall
2 provide for long-term, continuous, and quality-con-
3 trolled observations of the coasts, oceans, and Great
4 Lakes so as to—

5 (A) improve the health of the coasts,
6 oceans, and Great Lakes of the United States;

7 (B) protect human lives and livelihoods
8 from hazards, including tsunamis, hurricanes,
9 coastal erosion, and fluctuating Great Lakes
10 water levels;

11 (C) understand the effects of human activi-
12 ties and natural variability on the state of the
13 coasts, oceans, and Great Lakes and the socio-
14 economic well-being of the United States;

15 (D) provide for the sustainable use, protec-
16 tion, and enjoyment of ocean, coastal, and
17 Great Lakes resources;

18 (E) provide information that can support
19 the eventual implementation and refinement of
20 ecosystem-based management;

21 (F) supply critical information to marine-
22 related businesses, including aquaculture and
23 fisheries; and

24 (G) support research and development to—

1 (i) ensure continuous improvement to
2 ocean, coastal, and Great Lakes observa-
3 tion measurements; and

4 (ii) enhance understanding of the
5 ocean, coastal, and Great Lakes resources
6 of the United States.

7 (b) SYSTEM ELEMENTS.—To carry out the purposes
8 of this subtitle, the observing system shall consist of—

9 (1) a national program to fulfill national obser-
10 vation priorities, including the ocean contribution of
11 the United States to the Global Earth Observation
12 System of Systems and the Global Ocean Observing
13 System;

14 (2) a network of regional associations to man-
15 age the regional ocean and coastal observing and in-
16 formation programs that collect, measure, and dis-
17 seminate data and information products to meet re-
18 gional needs;

19 (3) a data management and dissemination sys-
20 tem for the timely integration and dissemination of
21 data and information products from the national
22 and regional systems;

23 (4) a research and development program con-
24 ducted under the guidance of the Council; and

1 (5) an outreach, education, and training pro-
2 gram that augments existing programs, including
3 the National Sea Grant College Program, the Cen-
4 ters for Ocean Sciences Education Excellence pro-
5 gram, and the National Estuarine Research Reserve
6 System, to ensure the use of the data and informa-
7 tion for—

8 (A) improving public education and aware-
9 ness of the oceans of the United States; and

10 (B) building the technical expertise re-
11 quired to operate and improve the observing
12 system.

13 (c) COUNCIL FUNCTIONS.—In carrying out this sec-
14 tion, the Council shall—

15 (1) serve as the oversight body for the design
16 and implementation of all aspects of the observing
17 system;

18 (2) adopt plans, budgets, and standards that
19 are developed and maintained by the interagency
20 program office in consultation with the regional as-
21 sociations;

22 (3) coordinate the observing system with other
23 earth observing activities, including the Global
24 Ocean Observing System and the Global Earth Ob-
25 serving System of Systems;

1 (4) coordinate and administer programs of re-
2 search, development, education, and outreach to—

3 (A) support improvements to, and the op-
4 eration of, an integrated ocean and coastal ob-
5 serving system; and

6 (B) advance the understanding of the
7 oceans;

8 (5) establish pilot projects to develop technology
9 and methods for advancing the development of the
10 observing system;

11 (6) provide, as appropriate, support for and
12 representation on United States delegations to inter-
13 national meetings on ocean and coastal observing
14 programs; and

15 (7) in consultation with the Secretary of State,
16 coordinate relevant Federal activities with those of
17 other nations.

18 (d) INTERAGENCY PROGRAM OFFICE.—

19 (1) IN GENERAL.—The Council shall establish
20 an interagency program office to be known as “Oce-
21 anUS”.

22 (2) RESPONSIBILITIES.—The interagency pro-
23 gram office shall be responsible for program plan-
24 ning and coordination of the observing system.

1 (3) REQUIREMENTS.—The interagency program
2 office shall—

3 (A) prepare annual and long-term plans
4 for consideration by the Council for the design
5 and implementation of the observing system
6 that promote collaboration among Federal
7 agencies and regional associations in developing
8 the global and national observing systems, in-
9 cluding identification and refinement of a core
10 set of variables to be measured by all systems;

11 (B) coordinate the development of agency
12 priorities and budgets for implementation of the
13 observing system, including budgets for the re-
14 gional associations;

15 (C) establish and refine standards and pro-
16 tocols for data management and communica-
17 tions, including quality standards, in consulta-
18 tion with participating Federal agencies and re-
19 gional associations;

20 (D) develop a process for the certification
21 and periodic review and recertification of the re-
22 gional associations;

23 (E) establish an external technical com-
24 mittee to provide biennial review of the observ-
25 ing system; and

1 (F) provide for opportunities to partner or
2 contract with private sector companies in de-
3 ploying ocean observation system elements.

4 (e) LEAD FEDERAL AGENCY.—

5 (1) IN GENERAL.—The National Oceanic and
6 Atmospheric Administration shall be the lead Fed-
7 eral agency for implementation and operation of the
8 observing system.

9 (2) REQUIREMENTS.—Based on the plans pre-
10 pared by the interagency program office and adopted
11 by the Council, the Administrator of the National
12 Oceanic and Atmospheric Administration shall—

13 (A) coordinate implementation, operation,
14 and improvement of the observing system;

15 (B) establish efficient and effective admin-
16 istrative procedures for allocation of funds
17 among Federal agencies and regional associa-
18 tions in a timely manner and according to the
19 budget adopted by the Council;

20 (C) implement and maintain appropriate
21 elements of the observing system;

22 (D) provide for the migration of scientific
23 and technological advances from research and
24 development to operational deployment;

1 (E) integrate and extend existing programs
2 and pilot projects into the operational observa-
3 tion system;

4 (F) certify regional associations that meet
5 the requirements of subsection (f); and

6 (G) integrate the capabilities of the Na-
7 tional Coastal Data Development Center and
8 the Coastal Services Center of the National
9 Oceanic and Atmospheric Administration, and
10 other appropriate centers, into the observing
11 system to assimilate, manage, disseminate, and
12 archive data from regional observation systems
13 and other observation systems.

14 (f) REGIONAL ASSOCIATIONS OF OCEAN AND COAST-
15 AL OBSERVING SYSTEMS.—

16 (1) IN GENERAL.—The Administrator of the
17 National Oceanic and Atmospheric Administration
18 may certify 1 or more regional associations to be re-
19 sponsible for the development and operation of re-
20 gional ocean and coastal observing systems to meet
21 the information needs of user groups in the region
22 while adhering to national standards.

23 (2) REQUIREMENTS.—To be certifiable by the
24 Administrator, a regional association shall—

1 (A) demonstrate an organizational struc-
2 ture capable of supporting and integrating all
3 aspects of ocean and coastal observing and in-
4 formation programs within a region;

5 (B) operate under a strategic operations
6 and business plan that details the operation and
7 support of regional ocean and coastal observing
8 systems in accordance with the standards estab-
9 lished by the Council;

10 (C) provide information products for mul-
11 tiple users in the region;

12 (D) work with governmental entities and
13 programs at all levels within the region to pro-
14 vide timely warnings and outreach to protect
15 the public; and

16 (E) meet certification standards developed
17 by the interagency program office in conjunc-
18 tion with the regional associations and approved
19 by the Council.

20 (g) PROHIBITION ON LOBBYING.—Nothing in this
21 Act authorizes a regional association to engage in lobbying
22 activities (as defined in section 3 of the Lobbying Disclo-
23 sure Act of 1995 (2 U.S.C. 1602)).

24 (h) CIVIL LIABILITY.—For purposes of section
25 1346(b)(1) and chapter 171 of title 28, United States

1 Code, the Suits in Admiralty Act (46 U.S.C. App. 741
2 et seq.), and the Public Vessels Act (46 U.S.C. App. 781
3 et seq.)—

4 (1) any regional ocean and coastal observing
5 system that is a designated part of a regional asso-
6 ciation certified under this section shall, in carrying
7 out the purposes of this Act, be considered to be
8 part of the National Oceanic and Atmospheric Ad-
9 ministration; and

10 (2) any employee of that system, while acting
11 within the scope of the employment of the employee,
12 carrying out those purposes, shall be considered to
13 be an employee of the Government.

14 **SEC. 713. RESEARCH, DEVELOPMENT, AND EDUCATION.**

15 The Council shall establish programs for research,
16 development, education, and outreach for the ocean and
17 coastal observing system, including projects under the Na-
18 tional Oceanographic Partnership Program, consisting
19 of—

20 (1) basic research to advance knowledge of
21 ocean and coastal systems and ensure continued im-
22 provement of operational products, including related
23 infrastructure and observing technology;

1 (2) focused research projects to improve under-
2 standing of the relationship between the coasts and
3 oceans and human activities;

4 (3) large-scale computing resources and re-
5 search to advance modeling of ocean and coastal
6 processes; and

7 (4) a coordinated effort to build public edu-
8 cation and awareness of the ocean and coastal envi-
9 ronment and functions that integrates ongoing ac-
10 tivities, including the National Sea Grant College
11 Program, the Centers for Ocean Sciences Education
12 Excellence, and the National Estuarine Research
13 Reserve System.

14 **SEC. 714. INTERAGENCY FINANCING.**

15 (a) IN GENERAL.—The departments and agencies
16 represented on the Council may participate in interagency
17 financing and share, transfer, receive, obligate, and ex-
18 pend funds appropriated to any member of the Council
19 to carry out any administrative or programmatic project
20 or activity under this Act or under the National Oceano-
21 graphic Partnership Program, including support for the
22 interagency program office, a common infrastructure, and
23 system integration for a ocean and coastal observing sys-
24 tem.

1 (b) TRANSFER OF FUNDS.—Funds may be trans-
2 ferred among the departments and agencies described in
3 subsection (a) through an appropriate instrument that
4 specifies the goods, services, or space being acquired from
5 another Council member and the costs of the same.

6 **SEC. 715. APPLICATION WITH OUTER CONTINENTAL SHELF**
7 **LANDS ACT.**

8 Nothing in this Act supersedes, or limits the author-
9 ity of the Secretary of the Interior under, the Outer Conti-
10 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

11 **SEC. 716. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—There is authorized to be appro-
13 priated to the National Oceanic and Atmospheric Adminis-
14 tration to carry out the observing system under section
15 712 and the research and development program under sec-
16 tion 713 (including financial assistance to the interagency
17 program office, the regional associations for the implemen-
18 tation of regional ocean and coastal observing systems,
19 and the departments and agencies represented on the
20 Council) \$150,000,000 for each of fiscal years 2007
21 through 2011, to remain available until expended.

22 (b) ALLOCATION OF FUNDS.—At least 50 percent of
23 the funds appropriated to carry out the observing system
24 under section 712 shall be allocated to the regional asso-

1 ciations certified under section 712(f) to carry out regional
2 ocean and coastal observing systems.

3 **SEC. 717. REPORTING REQUIREMENT.**

4 (a) IN GENERAL.—Not later than March 31, 2010,
5 the President, acting through the Council, shall submit to
6 Congress a report on the programs established under sec-
7 tions 712 and 713.

8 (b) REQUIREMENTS.—The report shall include—

9 (1) a description of activities carried out under
10 the programs;

11 (2) an evaluation of the effectiveness of the pro-
12 grams; and

13 (3) recommendations concerning reauthoriza-
14 tion of the programs and funding levels for the pro-
15 grams in succeeding fiscal years.

16 **Subtitle C—Great Lakes Water**
17 **Quality Indicators and Monitoring**

18 **SEC. 721. GREAT LAKES WATER QUALITY INDICATORS AND**
19 **MONITORING.**

20 Section 118(c)(1) of the Federal Water Pollution
21 Control Act (33 U.S.C. 1268(c)(1)) is amended by strik-
22 ing subparagraph (B) and inserting the following:

23 “(B)(i) not later than 2 years after the
24 date of enactment of this clause, in cooperation
25 with Canada and appropriate Federal agencies

1 (including the United States Geological Survey,
2 the National Oceanic and Atmospheric Admin-
3 istration, and the United States Fish and Wild-
4 life Service), develop and implement a set of
5 science-based indicators of water quality and re-
6 lated environmental factors in the Great Lakes,
7 including, at a minimum, measures of toxic pol-
8 lutants that have accumulated in the Great
9 Lakes for a substantial period of time, as deter-
10 mined by the Program Office;

11 “(ii) not later than 4 years after the date
12 of enactment of this clause—

13 “(I) establish a Federal network for
14 the regular monitoring of, and collection of
15 data throughout, the Great Lakes basin
16 with respect to the indicators described in
17 clause (i); and

18 “(II) collect an initial set of bench-
19 mark data from the network; and

20 “(iii) not later than 2 years after the date
21 of collection of the data described in clause
22 (ii)(II), and biennially thereafter, in addition to
23 the report required under paragraph (10), sub-
24 mit to Congress, and make available to the pub-
25 lic, a report that—

1 “(I) describes the water quality and
2 related environmental factors of the Great
3 Lakes (including any changes in those fac-
4 tors), as determined through the regular
5 monitoring of indicators under clause
6 (ii)(I) for the period covered by the report;
7 and

8 “(II) identifies any emerging problems
9 in the water quality or related environ-
10 mental factors of the Great Lakes;”.

11 **TITLE VIII—SUSTAINABLE** 12 **DEVELOPMENT**

13 **SEC. 801. WATERFRONT RESTORATION AND REMEDIATION** 14 **PROJECTS.**

15 (a) DEFINITIONS.—In this section:

16 (1) RELATED AREA.—The term “related area”
17 means land—

18 (A) located adjacent to, or in close prox-
19 imity of, a waterfront area; and

20 (B) that impacts or influences a waterfront
21 area or an aquatic habitat.

22 (2) SECRETARY.—The term “Secretary” means
23 the Secretary of Commerce, acting through the
24 Under Secretary for Oceans and Atmosphere.

1 (3) WATERFRONT AREA.—The term “water-
2 front area” means a site located adjacent to a lake,
3 river, stream, wetland, or floodplain of the United
4 States.

5 (b) APPLICATION.—An individual or entity that seeks
6 to receive assistance under this section shall submit to the
7 Secretary an application for the assistance in such form,
8 by such time, and containing such information as the Sec-
9 retary may require.

10 (c) JUSTIFICATION AND PURPOSE.—

11 (1) JUSTIFICATION.—The Secretary may pro-
12 vide assistance to eligible recipients in financing a
13 restoration or remediation project only if the Sec-
14 retary finds that the proposed project addresses con-
15 cerns relating to—

16 (A) public health;

17 (B) public safety;

18 (C) environmental improvements; or

19 (D) economic improvements.

20 (2) PURPOSE.—An eligible recipient of assist-
21 ance may use assistance made available under this
22 section to complete a restoration or remediation
23 project for the purpose of—

24 (A) improving the surrounding ecosystem;

25 or

1 (B) preparing land for redevelopment by
2 Federal, State, or local agencies, or private en-
3 tities.

4 (d) COST SHARING.—

5 (1) GENERAL ASSISTANCE.—

6 (A) IN GENERAL.—Except as otherwise
7 provided in this subsection, the Federal share of
8 the cost of carrying out a restoration or remedi-
9 ation project under this section shall not exceed
10 65 percent, as determined by the Secretary.

11 (B) INNOVATIVE TECHNOLOGY.—The Fed-
12 eral share of the cost of carrying out a restora-
13 tion or remediation project under this section
14 that involves conducting a pilot project to test
15 a demonstration or innovative technology shall
16 not exceed 85 percent, as determined by the
17 Secretary.

18 (2) OPERATION AND MAINTENANCE.—The non-
19 Federal share of operation and maintenance costs
20 for a restoration or remediation project under this
21 section shall be 100 percent.

22 (3) CREDIT FOR WORK-IN-KIND CONSIDER-
23 ATIONS.—In determining the amount of a contribu-
24 tion made by a non-Federal interest under this sec-
25 tion, the non-Federal interest shall receive credit

1 equal to 100 percent of the value of any land, ease-
2 ments, rights-of-way, and relocations, and the rea-
3 sonable cost of services, studies, and supplies, con-
4 tributed toward the non-Federal share of project
5 costs.

6 (4) LIABILITY OF FEDERAL GOVERNMENT.—
7 The eligible recipient shall hold the United States
8 harmless from any claim or damage that may arise
9 from carrying out the restoration or remediation
10 project under this section, except any claim or dam-
11 age that may arise from the negligence of the Fed-
12 eral Government or a contractor of the Federal Gov-
13 ernment.

14 (e) FUNDING LIMITATION PER PROJECT.—Of the
15 funds provided under this section, not more than
16 \$5,000,000 may be allocated for an individual restoration
17 or rehabilitation project.

18 **SEC. 802. AUTHORITY OF SECRETARY TO RESTORE AND RE-**
19 **MEDIATE WATERFRONT AND RELATED**
20 **AREAS.**

21 The Secretary, in consultation with appropriate Fed-
22 eral, State, and local agencies, is authorized to restore and
23 remediate waterfront and related areas, including site
24 characterization, planning, design, construction, and mon-
25 itoring.

- 1 (C) Lake Michigan;
2 (D) Lake Ontario;
3 (E) Lake Superior; and
4 (F) the connecting channels of those
5 Lakes, including—
6 (i) the Saint Marys River;
7 (ii) the Saint Clair River;
8 (iii) the Detroit River;
9 (iv) the Niagara River; and
10 (v) the Saint Lawrence River to the
11 Canadian border.

12 (5) GREAT LAKES CITY.—The term “Great
13 Lakes city” means a city located in the watershed
14 basin of a Great Lake.

15 (6) GREAT LAKES TRIBE.—The term “Great
16 Lakes Tribe” means any Indian tribe, band, village,
17 nation, or other organized group or community in
18 the watershed basin of a Great Lake that is recog-
19 nized by the Bureau of Indian Affairs as eligible for
20 the special programs and services provided by the
21 United States to Indians because of their status as
22 Indians.

23 (7) SAINT LAWRENCE CITY.—The term “Saint
24 Lawrence city” means a city located in the water-
25 shed basin of the Saint Lawrence River.

1 (8) TASK FORCE.—The term “Task Force”
2 means the Great Lakes Interagency Task Force es-
3 tablished by section 902(a).

4 **SEC. 902. GREAT LAKES INTERAGENCY TASK FORCE.**

5 (a) INTERAGENCY COORDINATION.—The Great
6 Lakes Interagency Task Force, as established by the Ex-
7 ecutive Order for administrative purposes, is established
8 as a task force within the Environmental Protection Agen-
9 cy.

10 (b) DUTIES.—In addition to the duties described in
11 the Executive Order, the Task Force shall—

12 (1) ensure that implementation of programs
13 and projects under the authority of the Task Force
14 members is coordinated, effective, and cost-efficient;

15 (2) work in cooperation with Federal agencies
16 on the development of budgets and financial plans
17 regarding the Great Lakes for inclusion in annual
18 submissions by the President to Congress of the
19 budget of the United States; and

20 (3) submit to Congress a biennial report that
21 describes the projects and activities carried out by
22 the Collaboration during the 2-year period covered
23 by the report, including a description of—

24 (A) any actions that Federal agencies can
25 take to address the biennial restoration goals;

1 (B) Federal expenditures to meet the res-
2 toration goals; and

3 (C) the indicators and monitoring used to
4 determine whether the goals will be met.

5 **SEC. 903. EXECUTIVE COMMITTEE.**

6 (a) IN GENERAL.—There is established a Great
7 Lakes Regional Collaboration Executive Committee.

8 (b) COMPOSITION.—The Executive Committee shall
9 be composed of—

10 (1) the Chairperson of the Task Force;

11 (2) a representative of the Governors of the
12 Great Lakes States, as agreed upon by the Gov-
13 ernors;

14 (3) a representative of the Great Lakes cities
15 and Saint Lawrence cities, as agreed upon by the
16 majority of mayors of those cities; and

17 (4) a designated representative for the Great
18 Lakes Tribes, as agreed upon by those Tribes.

19 (c) DUTIES.—The Executive Committee shall—

20 (1) hold semiannual meetings to discuss Great
21 Lakes restoration goals and progress;

22 (2) establish a process to receive input from in-
23 terested parties with respect to proposed rec-
24 ommendations of the Executive Committee for res-
25 toration of the Great Lakes; and

1 (3) submit to Congress and the Task Force a
2 biennial report that includes—

3 (A) an analysis of progress in carrying out
4 restoration of the Great Lakes, including meet-
5 ing the goals and recommendations in the res-
6 toration and protection strategy developed by
7 the Great Lakes Regional Collaboration and
8 this bill; and

9 (B) recommendations on future priorities
10 and actions with respect to that restoration.

11 (d) SUBCOMMITTEES.—The members of the Execu-
12 tive Committee may designate representatives to work as
13 1 or more subcommittees to provide staff support and oth-
14 erwise assist in carrying out responsibilities of the Execu-
15 tive Committee relating to the Collaboration.

16 **SEC. 904. GREAT LAKES REGIONAL COLLABORATION.**

17 (a) IN GENERAL.—There is established the Great
18 Lakes Regional Collaboration.

19 (b) COMPOSITION.—The Collaboration shall be com-
20 posed of—

21 (1) the members of the Executive Committee;
22 and

23 (2) each other individual and entity that noti-
24 fies the Executive Committee of the desire and in-

1 tent of the individual or entity to participate in the
2 Collaboration.

3 (c) DUTIES.—The Collaboration shall—

4 (1) develop a restoration and protection strat-
5 egy to provide information for use in future Great
6 Lakes program implementation and funding deci-
7 sions;

8 (2) serve as a forum for addressing near-term
9 regional issues relating to ecosystem restoration and
10 protection of the Great Lakes; and

11 (3) establish an oversight forum to coordinate
12 and enhance implementation of Great Lakes pro-
13 grams.

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