

NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

[Public Law 101–646; Approved November 29, 1990]

[As Amended Through P.L. 118–272, Enacted January 4, 2025]

Currency: This publication is a compilation of the text of Public Law 101–646. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>

Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).

AN ACT To prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AQUATIC NUISANCE PREVENTION AND CONTROL

Subtitle A—General Provisions

SECTION 1001. SHORT TITLE.

This title may be cited as the “Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990”.

[16 U.S.C. 4701 nt]

SEC. 1002. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

Sec. 1002 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

2

- (3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—
 - (A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;
 - (B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and
 - (C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;
- (4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at \$5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species by the zebra mussel and ruffe, round goby, and other nonindigenous species could be severe;
- (5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate;
- (6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;
- (7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;
- (8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;
- (9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;
- (10) since their introduction in the early 1980's in ballast water discharges, ruffe—
 - (A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);
 - (B) have spread to Lake Huron; and
 - (C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;
- (11) examples of nonindigenous species that, as of the date of enactment of the National Invasive Species Act of 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—
 - (A) the mitten crab (*Eriocheira sinensis*) that has become established on the Pacific Coast;
 - (B) the green crab (*Carcinus maenas*) that has become established in the coastal waters of the Atlantic Ocean;
 - (C) the brown mussel (*Perna perna*) that has become established along the Gulf of Mexico; and
 - (D) certain shellfish pathogens;
- (12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water

chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.

(b) PURPOSES.—The purposes of this Act are—

(1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

(2) to coordinate federally conducted, funded, or authorized research, prevention control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

(3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;

(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

(5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

[16 U.S.C. 4701]

SEC. 1003. DEFINITIONS.

As used in this Act, the term—

(1) “aquatic nuisance species” means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

(2) “Assistant Secretary” means the Assistant Secretary of the Army (Civil Works);

(3) “ballast water” means any water and associated sediments used to manipulate the trim and stability of a vessel;

(4) “Director” means the Director of the United States Fish and Wildlife Service;

(5) “exclusive economic zone” means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

Sec. 1003 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

4

(6) "environmentally sound" methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

(7) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canadian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

(8) "Great Lakes region" means the 8 States that border on the Great Lakes;

(9) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) "interstate organization" means an entity—

(A) established by—

(i) an interstate compact that is approved by Congress;

(ii) a Federal statute; or

(iii) a treaty or other international agreement with respect to which the United States is a party; and

(B)(i) that represents 2 or more—

(I) States or political subdivisions thereof; or

(II) Indian tribes; or

(ii) that represents—

(I) 1 or more States or political subdivisions thereof; and

(II) 1 or more Indian tribes; or

(iii) that represents the Federal Government and 1 or more foreign governments; and

(C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;

(11) "nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

(12) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(13) "State" means each of the several States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands of the United States;

(14) "recreational vessel" has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362);

(15) "Task Force" means the Aquatic Nuisance Species Task Force established under section 1201 of this Act;

(16) "territorial sea" means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

(17) "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere;

(18) "waters of the United States" means the navigable waters and the territorial sea of the United States; and

(19) "unintentional introduction" means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

[16 U.S.C. 4702]

Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species

[Section 1101 was repealed by section 903(a)(2)(A)(i) of P.L. 115-282.]

SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.

(a) STUDIES ON INTRODUCTION OF AQUATIC NUISANCE SPECIES BY VESSELS.—

(1) **BALLAST EXCHANGE STUDY.**—The Task Force, in cooperation with the Secretary, shall conduct a study—

(A) to assess the environmental effects of ballast water exchange on the diversity and abundance of native species in receiving estuarine, marine, and fresh waters of the United States; and

(B) to identify areas within the waters of the United States and the exclusive economic zone, if any, where the exchange of ballast water does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States.

(2) **BIOLOGICAL STUDY.**—The Task Force, in cooperation with the Secretary, shall conduct a study to determine whether aquatic nuisance species threaten the ecological characteristics and economic uses of Lake Champlain and other waters of the United States other than the Great Lakes.

(3) **SHIPPING STUDY.**—The Secretary shall conduct a study to determine the need for controls on vessels entering waters of the United States, other than the Great Lakes, to minimize the risk of unintentional introduction and dispersal of aquatic

Sec. 1102 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

6

nuisance species in those waters. The study shall include an examination of—

(A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;

(B) possible alternatives for controlling introduction of those species through shipping; and

(C) the feasibility of implementing regional versus national control measures.

(b) ECOLOGICAL AND BALLAST WATER DISCHARGE SURVEYS.—

(1) ECOLOGICAL SURVEYS.—

(A) IN GENERAL.—The Task Force, in cooperation with the Secretary, shall conduct ecological surveys of the Chesapeake Bay, San Francisco Bay, and Honolulu Harbor and, as necessary, of other estuaries of national significance and other waters that the Task Force determines—

(i) to be highly susceptible to invasion by aquatic nuisance species resulting from ballast water operations and other operations of vessels; and

(ii) to require further study.

(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

(i) examine the attributes and patterns of invasions of aquatic nuisance species; and

(ii) provide an estimate of the effectiveness of ballast water management and other vessel management guidelines issued and regulations promulgated under this subtitle in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

(2) BALLAST WATER DISCHARGE SURVEYS.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall conduct surveys of ballast water discharge rates and practices in the waters referred to in paragraph (1)(A) on the basis of the criteria under clauses (i) and (ii) of such paragraph.

(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Secretary shall—

(i) examine the rate of, and trends in, ballast water discharge in the waters that are the subject of the survey; and

(ii) assess the effectiveness of voluntary guidelines issued, and regulations promulgated, under this subtitle in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

(3) COLUMBIA RIVER.—The Secretary, in cooperation with the Task Force and academic institutions in each of the States affected, shall conduct an ecological and ballast water discharge survey of the Columbia River system consistent with the requirements of paragraphs (1) and (2).

(c) REPORTS.—

(1) **BALLAST EXCHANGE.**—Not later than 18 months after the date of enactment of this Act and prior to the effective date of the regulations issued under section 1101(b) (as in effect on the day before the date of enactment of the Vessel Incidental Discharge Act of 2018), the Task Force shall submit a report to the Congress that presents the results of the study required under subsection (a)(1) and makes recommendations with respect to such regulations.

(2) **BIOLOGICAL AND SHIPPING STUDIES.**—Not later than 18 months after the date of enactment of this Act, the Secretary and the Task Force shall each submit to the Congress a report on the results of their respective studies under paragraphs (2) and (3) of subsection (a).

(d) **NEGOTIATIONS.**—The Secretary, working through the International Maritime Organization, is encouraged to enter into negotiations with the governments of foreign countries concerning the planning and implementation of measures aimed at the prevention and control of unintentional introductions of aquatic nuisance species in coastal waters.

(e) **REGIONAL RESEARCH GRANTS.**—Out of amounts appropriated to carry out this subsection for a fiscal year, the Under Secretary may—

(1) make available not to exceed \$750,000 to fund research on aquatic nuisance species prevention and control in the Chesapeake Bay through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(2) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control in the Gulf of Mexico through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(3) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control for the Pacific Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions;

(4) make available not to exceed \$500,000 to fund research on aquatic nuisance species prevention and control for the Atlantic Coast through grants, to be competitively awarded and subject to peer review, to universities and research institutions; and

(5) make available not to exceed \$750,000 to fund research on aquatic nuisance species prevention and control in the San Francisco Bay-Delta Estuary through grants, to be competitively awarded and subject to peer review, to universities and research institutions.

(f) **NATIONAL BALLAST INFORMATION CLEARINGHOUSE.**—

(1) **IN GENERAL.**—The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

(A) ballasting practices;

Sec. 1102 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

8

(B) compliance with the guidelines issued pursuant to section 1101(c) (as in effect on the day before the date of enactment of the Vessel Incidental Discharge Act of 2018); and

(C) any other information obtained by the Task Force under subsection (b).

(2) BALLAST WATER REPORTING REQUIREMENTS.—

(A) IN GENERAL.—The owner or operator of a vessel subject to this title shall submit to the National Ballast Information Clearinghouse, by not later than 6 hours after the arrival of the vessel at a United States port or place of destination, the ballast water management report form approved by the Office of Management and Budget numbered OMB 1625-0069 (or a successor form), unless the vessel is operating exclusively on a voyage between ports or places within contiguous portions of a single Captain of the Port Zone.

(B) MULTIPLE DISCHARGES.—The owner or operator of a vessel subject to this title may submit a single report under subparagraph (A) for multiple ballast water discharges within a single port or place of destination during the same voyage.

(C) ADVANCE REPORT TO STATES.—A State may require the owner or operator of a vessel subject to this title to submit directly to the State, or to an appropriate regional forum, a ballast water management report form—

(i) not later than 24 hours prior to arrival at a United States port or place of destination in the State, if the voyage of the vessel is anticipated to exceed 24 hours; or

(ii) before departing the port or place of departure, if the voyage of the vessel to the United States port or place of destination is not anticipated to exceed 24 hours.

(3) VESSEL REPORTING DATA.—

(A) DISSEMINATION TO STATES.—On receipt of a ballast water management report under paragraph (2), the National Ballast Information Clearinghouse shall—

(i) in the case of a form submitted electronically, immediately disseminate the report to interested States; or

(ii) in the case of a form submitted by means other than electronically, disseminate the report to interested States as soon as practicable.

(B) AVAILABILITY TO PUBLIC.—Not later than 30 days after the date of receipt of a ballast water management report under paragraph (2), the National Ballast Information Clearinghouse shall make the data in the report fully and readily available to the public in a searchable and fully retrievable electronic format.

(4) REPORT.—

(A) IN GENERAL.—Not later than July 1, 2019, and annually thereafter, the Secretary shall prepare and submit a report in accordance with this paragraph.

(B) CONTENTS.—Each report under this paragraph shall synthesize and analyze the data described in paragraph (1) for the preceding 2-year period to evaluate nationwide status and trends relating to—

- (i) ballast water delivery and management; and
- (ii) invasions of aquatic nuisance species resulting from ballast water.

(C) DEVELOPMENT.—The Secretary shall prepare each report under this paragraph in consultation and cooperation with—

- (i) the Task Force; and
- (ii) the Smithsonian Institution (acting through the Smithsonian Environmental Research Center).

(D) SUBMISSION.—The Secretary shall—

- (i) submit each report under this paragraph to—
 - (I) the Task Force;
 - (II) the Committee on Commerce, Science, and Transportation of the Senate; and
 - (III) the Committee on Transportation and Infrastructure of the House of Representatives; and
- (ii) make each report available to the public.

(5) WORKING GROUP.—Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish a working group, including members from the National Ballast Information Clearinghouse and States with ballast water management programs, to establish a process for compiling and readily sharing Federal and State commercial vessel reporting and enforcement data regarding compliance with this Act.

[16 U.S.C. 4712]

SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS.

(a) DEPARTMENT OF DEFENSE VESSELS.—Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

(b) COAST GUARD VESSELS.—Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

[16 U.S.C. 4713]

SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

(a) TECHNOLOGIES AND PRACTICES DEFINED.—For purposes of this section, the term “technologies and practices” means those technologies and practices that—

- (1) may be retrofitted—
 - (A) on existing vessels or incorporated in new vessel designs; and

Sec. 1104 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

10

(B) on existing land-based ballast water treatment facilities;
(2) may be designed into new water treatment facilities;
(3) are operationally practical;
(4) are safe for a vessel and crew;
(5) are environmentally sound;
(6) are cost-effective;
(7) a vessel operator is capable of monitoring; and
(8) are effective against a broad range of aquatic nuisance species.

(b) DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 1301(e), the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.

(2) LOCATION.—The installation and construction of the technologies and practices used in the demonstration program conducted under this subsection shall be performed in the United States.

(3) VESSEL SELECTION.—In demonstrating technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—

(A) use only vessels that—

(i) are approved by the Secretary;
(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and
(iii) are—
(I) publicly or privately owned; and
(II) in active use for trade or other cargo shipment purposes during the demonstration;

(B) select vessels for participation in the program by giving priority consideration—

(i) first, to vessels documented under chapter 121 of title 46, United States Code;
(ii) second, to vessels that are a majority owned by citizens of the United States, as determined by the Secretary; and
(iii) third, to any other vessels that regularly call on ports in the United States; and

(C) seek to use a variety of vessel types, including vessels that—

(i) call on ports in the United States and on the Great Lakes; and
(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.

(4) SELECTION OF TECHNOLOGIES AND PRACTICES.—In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.

(5) REPORT.—Not later than 3 years after the date of enactment of the National Invasive Species Act of 1996, the Secretary of the Interior and the Secretary of Commerce shall prepare and submit a report to the Congress on the demonstration program conducted pursuant to this section. The report shall include findings and recommendations of the Secretary of the Interior and the Secretary of Commerce concerning technologies and practices.

(c) AUTHORITIES; CONSULTATION AND COOPERATION WITH INTERNATIONAL MARITIME ORGANIZATION AND TASK FORCE.—

(1) AUTHORITIES.—In conducting the demonstration program under subsection (b), the Secretary of the Interior may—

(A) enter into cooperative agreements with appropriate officials of other agencies of the Federal Government, agencies of States and political subdivisions thereof, and private entities;

(B) accept funds, facilities, equipment, or personnel from other Federal agencies; and

(C) accept donations of property and services.

(2) CONSULTATION AND COOPERATION.—The Secretary of the Interior shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.

[16 U.S.C. 4714]

Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal

SEC. 1201. ESTABLISHMENT OF TASK FORCE.

(a) TASK FORCE.—There is hereby established an “Aquatic Nuisance Species Task Force”.

(b) MEMBERSHIP.—Membership of the Task Force shall consist of—

- (1) the Director;
- (2) the Under Secretary;
- (3) the Administrator of the Environmental Protection Agency;
- (4) the Commandant of the United States Coast Guard;
- (5) the Assistant Secretary;
- (6) the Secretary of Agriculture;
- (7) the Director of the National Park Service;
- (8) the Director of the Bureau of Land Management;
- (9) the Commissioner of Reclamation; and
- (10) the head of any other Federal agency that the chairpersons designated under subsection (d) deem appropriate.

Sec. 1202 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

12

(c) EX OFFICIO MEMBERS.—The chairpersons designated under subsection (d) shall invite representatives of the Great Lakes Commission, the Patrick Leahy Lake Champlain Basin Program, the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program, and State agencies and other governmental entities to participate as ex officio members of the Task Force.

(d) CHAIRPERSONS.—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subtitle in consultation and cooperation with the other members of the Task Force.

(e) MEMORANDUM OF UNDERSTANDING.—Within six months of the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subtitle.

(f) COORDINATION.—Each Task Force member shall coordinate any action to carry out this subtitle with any such action by other members of the Task Force, and regional, State and local entities.

(g) OBSERVERS.—The chairpersons designated under subsection (d) may invite representatives of nongovernmental entities to participate as observers of the Task Force.

[16 U.S.C. 4721]

SEC. 1202. AQUATIC NUISANCE SPECIES PROGRAM.

(a) IN GENERAL.—The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

(b) CONTENT.—The program developed under subsection (a) shall—

(1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and research to be conducted or funded by the Federal Government;

(2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;

(3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;

(4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subtitle;

(5) include recommendations for funding to implement elements of the program; and

(6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

(c) PREVENTION.—

(1) IN GENERAL.—The Task Force shall establish and implement measures, within the program developed under subsection (a), to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

(A) identification of pathways by which aquatic organisms are introduced to waters of the United States;

(B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

(2) **IMPLEMENTATION.**—Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

(d) **MONITORING.**—The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a), to—

(1) detect unintentional introductions of aquatic nuisance species;

(2) determine the dispersal of aquatic nuisance species after introduction; and

(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

(e) **CONTROL.**—

(1) **IN GENERAL.**—The Task Force may develop cooperative efforts, within the program established under subsection (a), to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this Act, control efforts include eradication of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquatic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

(2) **DECISIONS.**—The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate.

Sec. 1202 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

14

The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

(3) PROGRAMS.—If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and soliciting comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

(4) TECHNICAL ASSISTANCE AND RECOMMENDATIONS.—The Task Force may provide technical assistance and recommendations for best practices to an agency or entity engaged in vessel inspections or decontaminations for the purpose of—

- (A) effectively managing and controlling the movement of aquatic nuisance species into, within, or out of water of the United States; and
- (B) inspecting recreational vessels in a manner that minimizes disruptions to public access for boating and recreation in non-contaminated vessels.

(5) CONSULTATION AND INPUT.—In carrying out paragraph (4), including the development of recommendations, the Task Force may consult with Indian Tribes and solicit input from—

- (A) State and Tribal fish and wildlife management agencies;
- (B) other State and Tribal agencies that manage fishery resources of the State or sustain fishery habitat; and
- (C) relevant nongovernmental entities.

(f) RESEARCH.—

(1) PRIORITIES.—The Task Force shall, within the program developed under subsection (a), conduct research concerning—

- (A) the environmental and economic risks and impacts associated with the introduction of aquatic nuisance species into the waters of the United States;
- (B) the principal pathways by which aquatic nuisance species are introduced and dispersed;
- (C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and
- (D) the assessment of the effectiveness of prevention, monitoring and control methods.

(2) PROTOCOL.—Within 90 days of the date of enactment of this Act, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subtitle do not result in the introduction of aquatic nuisance species to waters of the United States.

(3) GRANTS FOR RESEARCH.—The Task Force shall allocate funds authorized under this Act for competitive research grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College

Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

(g) TECHNICAL ASSISTANCE.—The Task Force shall, within the program developed under subsection (a), provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

(h) EDUCATION.—The Task Force shall, with the program developed under subsection (a), establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

(i) ZEBRA MUSSEL DEMONSTRATION PROGRAM.—

(1) ZEBRA MUSSEL.—

(A) IN GENERAL.—The Task Force shall, within the program developed under subsection (a), undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

(i) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;

(ii) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;

(iii) development of control plans in coordination with regional, State and local entities; and

(iv) provision of technical assistance to regional, State and local entities to carry out this section.

(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—

The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

(C) VOLUNTARY GUIDELINES.—Not later than 1 year after the date of enactment of this subparagraph, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through

Sec. 1202 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

16

recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph.

(2) DISPERSAL CONTAINMENT ANALYSIS.—

(A) RESEARCH.—The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

(i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and

(ii) adhere to research protocols developed pursuant to subsection (f)(2).

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, \$500,000.

(3) DISPERSAL BARRIER DEMONSTRATION.—

(A) IN GENERAL.—The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

(B) REPORT.—Not later than 18 months after the date of enactment of this paragraph, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

(i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and

(ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph.

(4) CONTRIBUTIONS.—To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

(5) TECHNICAL ASSISTANCE.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.

(j) IMPLEMENTATION.—

(1) REGULATIONS.—The Director, the Secretary, and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

(2) PARTICIPATION OF OTHERS.—The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

(k) REPORTS.—

(1) Not later than 12 months after the date of enactment of this Act, the Task Force shall submit a report describing the program developed under subsection (a), including the research protocol required under subsection (f)(2), to the Congress.

(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the Congress detailing progress in carrying out this section.

(3) Not later than 90 days after the date of enactment of the Don Young Coast Guard Authorization Act of 2022, the Task Force shall submit a report to Congress recommending legislative, programmatic, or regulatory changes to eliminate remaining gaps in authorities between members of the Task Force to effectively manage and control the movement of aquatic nuisance species.

[16 U.S.C. 4722]

SEC. 1203. REGIONAL COORDINATION.

(a) GREAT LAKES PANEL.—

(1) IN GENERAL.—Not later than 30 days following the date of enactment of this Act, the Task Force shall request that the Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90-419) convene a panel of Great Lakes region representatives from Federal, State and local agencies and from private environmental and commercial interests to—

(A) identify priorities for the Great Lakes region with respect to aquatic nuisance species;

(B) make recommendations to the Task Force regarding programs to carry out section 1202(i) of this Act;

(C) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;

Sec. 1203 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

18

(D) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to this Act;

(E) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and

(F) submit annually a report to the Task Force describing activities within the Great Lakes region related to aquatic nuisance species prevention, research, and control.

(2) CONSULTATION.—The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this subsection on technical and policy matters related to the international fishery resources of the Great Lakes.

(3) CANADIAN PARTICIPATION.—The panel convened under this subsection is encouraged to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.

(b) WESTERN REGIONAL PANEL.—Not later than 30 days after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—

(1) identify priorities for the Western region with respect to aquatic nuisance species;

(2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 1202(i) of this Act;

(3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this Act;

(4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;

(5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and

(6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.

(c) ADDITIONAL REGIONAL PANELS.—The Task Force shall—

(1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and

(2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).

[16 U.S.C. 4723]

SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.

(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.—

(1) IN GENERAL.—After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—

(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State or within the interstate region involved, other than those related to public facilities, for which technical, enforcement, or financial assistance (or any combination thereof) is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State or within the interstate region involved for which technical and financial assistance is needed to reduce infestations of zebra mussels.

(2) CONTENT.—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities;

(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and

(D) a schedule of implementing the plan, including a schedule of annual objectives, and enabling legislation.

(3) CONSULTATION.—

(A) In developing and implementing a management plan, the State or interstate organization should, to the maximum extent practicable, involve local governments and regional entities, Indian tribes, and public and private organizations that have expertise in the control of aquatic nuisance species.

(B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1),

Sec. 1205 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

20

may provide technical assistance in developing and implementing a management plan.

(4) PLAN APPROVAL.—Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

(b) GRANT PROGRAM.—

(1) STATE GRANTS.—The Director may, at the recommendation of the Task Force, make grants to States with management plans approved under subsection (a) for the implementation of those plans.

(2) APPLICATION.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

(3) FEDERAL SHARE.—

(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(4) ADMINISTRATIVE COSTS.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(c) ENFORCEMENT ASSISTANCE.—Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.

[16 U.S.C. 4724]

SEC. 1205. RELATIONSHIP TO OTHER LAWS.

(a) CONSISTENCY WITH ENVIRONMENTAL LAWS.—All actions taken by Federal agencies in implementing the provisions of sec-

21 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR... Sec. 1209

tion 1202 shall be consistent with all applicable Federal, State, and local environmental laws.

(b) **EFFECT OF TITLE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife.

(2) **EXCEPTION.**—Any discharge incidental to the normal operation of a vessel, including any discharge of ballast water (as those terms are defined in subsections (a) and (p)(1) of section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322)), shall be regulated in accordance with that section.

(c) **EFFECT OF COMPLIANCE.**—Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.

【16 U.S.C. 4725】

SEC. 1206. INTERNATIONAL COOPERATION.

(a) **ADVICE.**—The Task Force shall provide timely advice to the Secretary of State concerning aquatic nuisance species that infest waters shared with other countries.

(b) **NEGOTIATIONS.**—The Secretary of State, in consultation with the Task Force, is encouraged to initiate negotiations with the governments of foreign countries concerning the planning and implementation of prevention, monitoring, research, education, and control programs related to aquatic nuisance species infesting shared water resources.

【16 U.S.C. 4726】

SEC. 1207. INTENTIONAL INTRODUCTIONS POLICY REVIEW.

Within one year of the date of enactment of this Act, the Task Force shall, in consultation with State fish and wildlife agencies, other regional, State and local entities, potentially affected industries and other interested parties, identify and evaluate approaches for reducing the risk of adverse consequences associated with intentional introduction of aquatic organisms and submit a report of their findings, conclusions and recommendations to the Congress.

【16 U.S.C. 4727】

SEC. 1208. INJURIOUS SPECIES.

Section 42(a) of title 18, United States Code is amended by inserting “of the zebra mussel of the species *Dreissena polymorpha*;” after “*Pteropus*;”.

SEC. 1209. BROWN TREE SNAKE CONTROL PROGRAM.

The Task Force shall, within the program developed under section 1202(a), undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (*Boiga irregularis*) in Guam and other areas where the species is established outside of its historic range.

【16 U.S.C. 4728】

Subtitle D—Authorizations of Appropriation

SEC. 1301. AUTHORIZATIONS.

(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

- (1) \$500,000 until the end of fiscal year 1992 to the Secretary to carry out sections 1101 and 1102(a)(3);
- (2) \$2,000,000 until the end of fiscal year 1992 to the Director and Under Secretary to carry out the studies under sections 1102(a)(1) and 1102(a)(2);
- (3) to the Secretary to carry out section 1101—
 - (A) \$2,000,000 for each of fiscal years 1997 and 1998; and
 - (B) \$3,000,000 for each of fiscal years 1999 through 2002;
- (4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 1102(b)—
 - (A) \$1,000,000 to the Department of the Interior, to be used by the Director; and
 - (B) \$1,000,000 to the Secretary; and
- (5) for each of fiscal years 1997 through 2002—
 - (A) \$3,000,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to the Under Secretary to carry out section 1102(e); and
 - (B) \$500,000 to the Secretary to carry out section 1102(f).

(b) TASK FORCE AND AQUATIC NUISANCE SPECIES PROGRAM.—There are authorized to be appropriated for each of fiscal years 1997 through 2002 to develop and implement the provisions of subtitle C—

- (1) \$6,000,000 to the Department of the Interior, to be used by the Director to carry out sections 1202 and 1209;
- (2) \$1,000,000 to the Department of Commerce, to be used by the Under Secretary to carry out section 1202;
- (3) \$1,625,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration, of which \$500,000 shall be made available for grants, to be competitively awarded and subject to peer review, for research relating to Lake Champlain;
- (4) \$5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:
 - (A) \$2,800,000, which shall be made available from funds otherwise authorized to be appropriated if such funds are so authorized, to fund grants under section 205 of the National Sea Grant College Program Act (33 U.S.C. 1124);

(B) \$1,200,000 to fund grants to colleges for the benefit of agriculture and the mechanic arts referred to in the first section of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 322); and

(C) \$1,000,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

(5) \$3,000,000 to the Department of the Army, to be used by the Assistant Secretary to carry out section 1202(i)(1)(B); and

(6) \$300,000 to the Department of the Interior, to be used by the Director to fund regional panels and similar entities under section 1203, of which \$100,000 shall be used to fund activities of the Great Lakes Commission.

(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1997 through 2002 \$4,000,000 to the Department of the Interior, to be used by the Director for making grants under section 1204, of which \$1,500,000 shall be used by the Director, in consultation with the Assistant Secretary, for management of aquatic nuisance vegetation species.

(d) INTENTIONAL INTRODUCTIONS POLICY REVIEW.—There are authorized to be appropriated for fiscal year 1991, \$500,000 to the Director and the Under Secretary to conduct the intentional introduction policy review under section 1207.

(e) BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—There are authorized to be appropriated \$2,500,000 to carry out section 1104.

(f) RESEARCH.—There are authorized to be appropriated to the Director \$1,000,000 to carry out research on the prevention, monitoring, and control of aquatic nuisance species in Narragansett Bay, Rhode Island. The funds shall be made available for use by the Department of Environmental Management of the State of Rhode Island.

[16 U.S.C. 4741]

Subtitle E—Cooperative Environmental Analyses

SEC. 1401. ENVIRONMENTAL IMPACT ANALYSES.

The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

[16 U.S.C. 4751]

TITLE III—WETLANDS ¹

SEC. 301. SHORT TITLE.

This title may be cited as the “Coastal Wetlands Planning, Protection and Restoration Act”.

【16 U.S.C. 3951 nt】

SEC. 302. DEFINITIONS.

As used in this title, the term—

- (1) “Secretary” means the Secretary of the Army;
- (2) “Administrator” means the Administrator of the Environmental Protection Agency;
- (3) “development activities” means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;
- (4) “State” means the State of Louisiana;
- (5) “coastal State” means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;
- (6) “coastal wetlands restoration project” means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this title or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects; the primary purpose of a “coastal wetlands restoration project” shall not be to provide navigation, irrigation or flood control benefits;
- (7) “coastal wetlands conservation project” means—
 - (A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and
 - (B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and

¹Title II was repealed by the amendment made by section 3(b) of the Great Lakes Fish and Wildlife Restoration Act of 1998 (Public Law 105-265; 112 Stat. 2358).

waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana;

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) "Director" means the Director of the United States Fish and Wildlife Service.

[16 U.S.C. 3951]

SEC. 303. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) **PRIORITY PROJECT LIST.—**

(1) **PREPARATION OF LIST.**—Within forty-five days after the date of enactment of this title, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) **TASK FORCE PROCEDURES.**—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 304 of this Act.

(3) **TRANSMITTAL OF LIST.**—No later than one year after the date of enactment of this title, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this title.

(4) **LIST OF CONTENTS.—**

Sec. 303 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

26

(A) **AREA IDENTIFICATION; PROJECT DESCRIPTION.**—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) **PRE-PLAN.**—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) **FUNDING.**—The Secretary shall, with the funds made available in accordance with section 306 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) **FEDERAL AND STATE PROJECT PLANNING.**—

(1) **PLAN PREPARATION.**—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this title.

(2) **PURPOSE OF THE PLAN.**—The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) **INTEGRATION OF EXISTING PLANS.**—In developing the restoration plan, the Task Force shall seek to integrate the “Louisiana Comprehensive Coastal Wetlands Feasibility Study” conducted by the Secretary of the Army and the “Coastal Wet-

lands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) PLAN EVALUATION.—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the

Sec. 303 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...**28**

net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) **CONSISTENCY.**—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) **FUNDING OF WETLANDS RESTORATION PROJECTS.**—The Secretary shall, with the funds made available in accordance with this title, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Amounts made available in accordance with section 306 of this title to carry out coastal wetlands restoration projects under this title shall provide 75 percent of the cost of such projects.

(2) **FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.**—Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this title, and such conservation plan is approved pursuant to section 304 of this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: *Provided, however,* that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) **FORM OF STATE SHARE.**—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of the cost of the project. The balance of such State share

may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

[16 U.S.C. 3952]

SEC. 304. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) **DEVELOPMENT OF CONSERVATION PLAN.—**

(1) **AGREEMENT.**—The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) **TERMS OF AGREEMENT.—**

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) **GRANTS AND ASSISTANCE.**—Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, with the funds made available in accordance with section 306 of this title, make grants during the development of the conservation plan to assist the designated State agency in developing such plan. Such grants shall not exceed 75 percent of the cost of developing the plan; and

(B) the Secretary, the Director, and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

Sec. 304 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

30

(b) **CONSERVATION PLAN GOAL.**—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of the preceding section of this title.

(c) **ELEMENTS OF CONSERVATION PLAN.**—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of the preceding section of this title;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) **APPROVAL OF CONSERVATION PLAN.**—

(1) **IN GENERAL.**—If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) **APPROVAL CRITERIA.**—The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the plan was developed in accordance with terms of the agreement set forth in subsection (a) of this section.

(e) **MODIFICATION OF CONSERVATION PLAN.**—

(1) **NONCOMPLIANCE.**—If the Secretary, the Director, and the Administrator determine that a conservation plan sub-

mitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the Director, and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including and accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORT TO CONGRESS.—Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary, the Director, and the Administrator shall, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

[16 U.S.C. 3953]

SEC. 305 NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) MATCHING GRANTS.—The Director shall, with the funds made available in accordance with the next following section of this title, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conserva-

Sec. 305 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR... **32**

tion project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces. In addition, priority consideration shall be given to coastal wetlands conservation projects in maritime forests on coastal barrier islands.

(c) CONDITIONS.—The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects; except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established and is using one of the following for the purpose of acquiring coastal wetlands, other natural areas or open spaces:

(A) a trust fund from which the principal is not spent; or
(B) a fund derived from a dedicated recurring source of monies including, but not limited to, real estate transfer fees or taxes, cigarette taxes, tax check-offs, or motor vehicle license plate fees.

(2) FORM OF STATE SHARE.—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) PARTIAL PAYMENTS.—

(1) The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent

upon the continued availability of funds for the purpose of this section.

(f) WETLANDS ASSESSMENT.—The Director shall, with the funds made available in accordance with the next following section of this title, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

[16 U.S.C. 3954]

SEC. 306. DISTRIBUTION OF APPROPRIATIONS.

(a) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount appropriated during a given fiscal year to carry out this title, 70 percent shall be available, and shall remain available until expended, for the purposes of making expenditures—

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under this title and the plan required under this title, including preparation of—

- (A) preliminary assessments;
- (B) general or site-specific inventories;
- (C) reconnaissance, engineering or other studies;
- (D) preliminary design work; and

(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetland restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this title;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this title;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this title.

(b) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent shall be available, and shall remain available to the Director, for purposes of making grants—

(1) to any coastal State, except States eligible to receive funding under section 306(a), to carry out coastal wetlands conservation projects in accordance with section 305 of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) NORTH AMERICAN WETLANDS CONSERVATION.—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in coastal wetlands ecosystems in any coastal State under section 8 of the North American

Sec. 307 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR...

34

Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

【16 U.S.C. 3955】

SEC. 307. GENERAL PROVISIONS.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

【16 U.S.C. 3956】

SEC. 308. CONFORMING AMENDMENT.

16 U.S.C. 777c is amended by adding the following after the first sentence: “The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided*, That, notwithstanding the provisions of section 777b, such sums shall remain available to carry out such Act through fiscal year 1999.”.

SEC. 309. ENVIRONMENTAL BANKS.

(a) GUIDELINES.—Not later than 1 year after the date of enactment of the Water Resources Development Act of 2016, the Task Force shall, after public notice and opportunity for comment, issue guidelines for the use, maintenance, and oversight of environmental banks in Louisiana.

(b) REQUIREMENTS.—The guidelines issued pursuant to subsection (a) shall—

(1) set forth procedures for establishment and approval of environmental banks subject to the approval of the heads of the appropriate Federal agencies responsible for implementation of Federal environmental laws for which mitigation credits may be used;

(2) establish criteria for siting of environmental banks that enhance the resilience of coastal resources to inundation and coastal erosion in high priority areas, as identified within Federal or State restoration plans, including the restoration of resources within the scope of a project authorized for construction;

(3) establish criteria that ensure environmental banks secure adequate financial assurances and legally enforceable protection for the land or resources that generate the credits from environmental banks;

(4) stipulate that credits from environmental banks may not be used for mitigation of impacts required under section

404 of the Federal Water Pollution Control Act (33 U.S.C. 1342) or the Endangered Species Act (16 U.S.C. 1531 et seq.) in an area where an existing mitigation bank approved pursuant to such laws within 5 years of enactment of the Water Resources Development Act of 2016 has credits available;

(5) establish performance criteria for environmental banks; and

(6) establish criteria and financial assurance for the operation and monitoring of environmental banks.

(c) ENVIRONMENTAL BANK.—

(1) DEFINITION OF ENVIRONMENTAL BANK.—In this section, the term “environmental bank” means a project, project increment, or projects for purposes of restoring, creating, or enhancing natural resources at a designated site to establish mitigation credits.

(2) CREDITS.—Mitigation credits created from environmental banks approved pursuant to this section may be used to satisfy existing liability under Federal environmental laws.

(d) SAVINGS CLAUSE.—

(1) APPLICATION OF FEDERAL LAW.—Guidelines developed under this section and mitigation carried out through an environmental bank established pursuant to such guidelines shall comply with all applicable requirements of Federal law (including regulations), including—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Endangered Species Act (16 U.S.C. 1531 et seq.);

(C) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(E) section 906 of the Water Resources Development Act of 1986 (33 U.S.C. 2283).

(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect—

(A) any authority, regulatory determination, or legal obligation in effect the day before the date of enactment of the Water Resources Development Act of 2016; or

(B) the obligations or requirements of any Federal environmental law.

(e) SUNSET.—No new environmental bank may be created or approved pursuant to this section after the date that is 14 years after the date of enactment of this section.

[16 U.S.C. 3957]

TITLE IV—GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT

SEC. 4001. SHORT TITLE.

This title may be cited as the “Great Lakes Oil Pollution Research and Development Act”.

Sec. 4002 NONINDIGENOUS AQUATIC NUISANCE PREVENTION & CONTR... **36**

SEC. 4002. GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT.

Section 7001 of the Oil Pollution Act of 1990 (Public Law 101-380) is amended as follows:

(1) **GREAT LAKES DEMONSTRATION PROJECT.**—In subsection (c)(6), strike “3” and insert “4”, strike “and” after “California,”, and insert “and (D) ports on the Great Lakes,” after “Louisiana.”.

(2) **FUNDING.**—In subsection (f) strike “21,250,000” and insert “22,000,000” and in subsection (f)(2) strike “2,250,000” and insert “3,000,000”.