

Public Law 104–332
104th Congress

An Act

To provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes.

Oct. 26, 1996
[H.R. 4283]

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

SECTION 1. SHORT TITLE; REFERENCES.

(a) IN GENERAL.—This Act may be cited as the “National Invasive Species Act of 1996”.

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

National
Invasive Species
Act of 1996.
Environmental
protection.
Maritime affairs.
16 USC 4701
note.

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) FINDINGS; DEFINITIONS.—

(1) FINDINGS.—Section 1002(a) (16 U.S.C. 4701(a)) is amended—

(A) by striking paragraphs (2) and (3) and inserting the following new paragraphs:

“(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 near-shore areas;

“(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;”;

(B) in paragraph (4)—

(i) by inserting “by the zebra mussel and ruffe, round goby, and other nonindigenous species” after “other species”; and

(ii) by striking “and” at the end;

(C) in paragraph (5), by striking the period and inserting a semicolon; and

(D) by adding at the end the following new paragraphs:

“(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 (*Eriocheir 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.”.

(2) DEFINITIONS.—Section 1003 (16 U.S.C. 4702) is amended—

(A) by striking paragraph (1) and redesignating paragraphs (2) through (8) as paragraphs (1) through (7), respectively;

(B) in paragraph (2), as redesignated by subparagraph (A) of this paragraph, by striking “assistant Secretary” and inserting “Assistant Secretary”;

(C) by redesignating paragraphs (9) through (15) as paragraphs (11) through (17), respectively; and

(D) by inserting after paragraph (7), as redesignated by subparagraph (A) of this paragraph, the following:

“(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;”.

(b) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—

(1) AMENDMENT TO HEADING.—The heading to subtitle B (16 U.S.C. 4711 et seq.) is amended to read as follows:

“Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species”.

(2) AQUATIC NUISANCE SPECIES.—Section 1101 (16 U.S.C. 4711) is amended to read as follows:

“SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

“(a) GREAT LAKES GUIDELINES.—

“(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic

nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

“(2) CONTENT OF GUIDELINES.—The guidelines issued under this subsection shall—

“(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

“(B) protect the safety of—

“(i) each vessel; and

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

“(C) take into consideration different vessel operating conditions; and

“(D) be based on the best scientific information available.

“(b) REGULATIONS.—

“(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

“(2) CONTENT OF REGULATIONS.—The regulations issued under this subsection shall—

“(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

“(B) require a vessel to—

“(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

“(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

“(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

“(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

“(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

“(F) protect the safety of—

“(i) each vessel; and

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

“(G) take into consideration different operating conditions; and

“(H) be based on the best scientific information available.

“(3) ADDITIONAL REGULATIONS.—In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

“(4) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

“(c) VOLUNTARY NATIONAL GUIDELINES.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

“(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

“(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

“(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

“(C) protect the safety of—

“(i) each vessel; and

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

“(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

“(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

“(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

“(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

“(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

Records.

“(i) ship operations other than ballast water discharge; and

“(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

“(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

“(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

“(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

“(G) provide for sampling procedures to monitor compliance with the guidelines;

“(H) take into consideration—

“(i) vessel types;

“(ii) variations in the characteristics of point of origin and receiving water bodies;

“(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

“(iv) different operating conditions;

“(I) be based on the best scientific information available;

“(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

“(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

“(L) not apply to crude oil tankers engaged in the coastwise trade.

“(3) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—

Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

“(d) REPORT TO CONGRESS.—Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e).

“(e) PERIODIC REVIEW AND REVISION.—

“(1) IN GENERAL.—Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c), and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

“(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) and the regulations promulgated under this Act;

“(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

“(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reducing the introduction and spread of aquatic nuisance species by vessels; and

“(D) as necessary, on the basis of the best scientific information available—

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

“(ii) promulgate additional regulations pursuant to subsection (f)(1); or

“(iii) carry out each of clauses (i) and (ii).

“(2) SPECIAL REVIEW AND REVISION.—Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

“(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

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

“(i) revise those guidelines;

“(ii) promulgate additional regulations pursuant to subsection (f)(1); or

“(iii) carry out each of clauses (i) and (ii).

“(3) CRITERIA FOR EFFECTIVENESS.—Not later than 18 months after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c).

“(f) AUTHORITY OF SECRETARY.—

“(1) GENERAL REGULATIONS.—If, on the basis of a periodic review conducted under subsection (e)(1) or a special review conducted under subsection (e)(2), the Secretary determines that—

“(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) is inadequate; or

“(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2), the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

“(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1)—

“(A) shall—

“(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d);

“(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c); and

“(iii) provide for the enforcement of the regulations; and

“(B) may be regional in scope.

“(3) INTERNATIONAL REGULATIONS.—The Secretary shall revise regulations promulgated under this subsection to the extent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

“(g) SANCTIONS.—

“(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under subsection (b) or (f) shall be liable for a civil penalty in an amount not to exceed \$25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

“(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under subsection (b) or (f) is guilty of a class C felony.

“(3) REVOCATION OF CLEARANCE.—Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f).

“(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

“(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

“(B) the recordkeeping and reporting requirements of the Act are complied with.

“(h) COORDINATION WITH OTHER AGENCIES.—In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

“(i) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, in consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

“(j) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the International Maritime Organization of the United Nations and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of nonindigenous species.

“(k) SAFETY EXEMPTION.—

“(1) MASTER DISCRETION.—The master of a vessel is not required to conduct a ballast water exchange if the master decides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

“(2) OTHER REQUIREMENTS.—(A) IN GENERAL.—Except as provided in subparagraph (B), a vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor.

“(B) GREAT LAKES.—Subparagraph (A) shall not apply in a case in which a vessel is subject to the regulations issued by the Secretary under subsection (b).

“(3) CRUDE OIL TANKER BALLAST FACILITY STUDY.—(A) Within 60 days of the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, affected shoreside ballast water facility operators, affected crude oil tanker operators, and interested parties, shall initiate a study of the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Alaska in preventing the introduction of nonindigenous aquatic species into the waters off Alaska, as well as the cost and feasibility of modifying such facilities to improve such effectiveness.

“(B) The study required under subparagraph (A) shall be submitted to the Congress by no later than October 1, 1997.

“(l) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.”.

(c) NATIONAL BALLAST WATER MANAGEMENT INFORMATION.—Section 1102 (16 U.S.C. 4712) is amended—

(1) by striking the section heading and inserting the following:

“SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.”;

(2) in subsection (a)—

(A) in paragraphs (1) and (2), by inserting “, in cooperation with the Secretary,” before “shall conduct” each place it appears;

(B) in paragraph (2), by inserting “Lake Champlain and other” after “economic uses of”;

(3) by striking subsection (b) and inserting the following:

“(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).”; and

(4) by adding at the end the following new subsections:

“(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;

“(B) compliance with the guidelines issued pursuant to section 1101(c); and

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

“(2) REPORT.—In consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), the Secretary shall prepare and submit to the Task Force and the Congress, on a biannual basis, a report that synthesizes and analyzes the data referred to in paragraph (1) relating to—

“(A) ballast water delivery and management; and

“(B) invasions of aquatic nuisance species resulting from ballast water.”.

(d) ARMED SERVICES BALLAST WATER PROGRAM; BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new sections:

“SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS.

16 USC 4713.

“(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.

“SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

16 USC 4714.

“(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

“(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.”.

(e) AMENDMENTS TO SUBTITLE C.—

(1) SUBTITLE HEADING.—The heading to subtitle C (16 U.S.C. 4721 et seq.) is amended to read as follows:

“Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal”.

(2) TASK FORCE.—Section 1201 (16 U.S.C. 4721) is amended—

(A) in subsection (b)—

(i) by striking “and” at the end of paragraph (5);

(ii) by redesignating paragraph (6) as paragraph (7); and

(iii) by inserting after paragraph (5) the following new paragraph:

“(6) the Secretary of Agriculture; and”; and

(B) in subsection (c), by inserting “the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program,” before “and State agencies”.

(3) RESEARCH PROGRAM.—Section 1202 (16 U.S.C. 4722) is amended—

(A) in subsection (f)(1)(A), by inserting “and impacts” after “economic risks”; and

(B) in subsection (i)—

(i) in paragraph (1)—

(I) by striking “(1) IN GENERAL.—The Task Force” and inserting the following:

“(1) ZEBRA MUSSEL.—

“(A) IN GENERAL.—The Task Force”;

(II) by striking “(A) research” and inserting the following:

“(i) research”;

(III) by striking “(B) tracking” and inserting the following:

“(ii) tracking”;

(IV) by striking “(C) development” and inserting the following:

“(iii) development”; and

(V) by striking “(D) provision” and inserting the following:

“(iv) provision”;

(ii) in paragraph (2), by striking “(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—” and inserting the following:

“(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—”;

(iii) in subparagraph (B) of paragraph (1), as so redesignated, by striking the first sentence and inserting the following: “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.”;

(iv) in paragraph (1), by adding after subparagraph (B), as so redesignated, the following new subparagraph:

“(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 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.”; and

(v) by adding at the end the following new paragraphs:

“(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, to carry out this paragraph, \$750,000.

“(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.”.

(4) IMPLEMENTATION.—Section 1202(j)(1) (16 U.S.C. 4722(j)(1)) is amended by striking “Not later than 18 months after the date of the enactment of this Act, the Director” and inserting “The Director, the Secretary,”.

(5) REGIONAL COORDINATION.—Section 1203 (16 U.S.C. 4723) is amended—

(A) by striking the section heading and inserting the following:

“SEC. 1203. REGIONAL COORDINATION.”;

(B) in subsection (a)—

(i) by striking “(a) IN GENERAL.—Not” and inserting the following:

“(a) GREAT LAKES PANEL.—

“(1) IN GENERAL.—Not”;

(ii) by striking “(1) identify” and inserting the following:

“(A) identify”;

(iii) by striking “(2) make” and inserting the following:

“(B) make”;

(iv) by striking “(3) assist” and inserting the following:

“(C) assist”;

(v) by striking “(4) coordinate” and inserting the following:

“(D) coordinate”;

(vi) by striking “(5) provide” and inserting the following:

“(E) provide”;

(vii) by striking “(6) submit” and inserting the following:

“(F) submit”;

(viii) in paragraph (1), as so redesignated—

(I) in the matter preceding subparagraph (A), by inserting “region” before “representatives”; and

(II) in subparagraphs (A) through (F), by striking “Great Lakes” each place it appears and inserting “Great Lakes region”;

(C) by striking “(b) CONSULTATION.—The Task Force” and inserting the following:

“(2) CONSULTATION.—The Task Force”;

(D) by striking “(c) CANADIAN PARTICIPATION.—The panel” and inserting the following:

“(3) CANADIAN PARTICIPATION.—The panel”;

(E) in paragraphs (2) and (3) of subsection (a), as so redesignated, by striking “this section” and inserting “this subsection”; and

(F) by adding at the end the following new subsections:

“(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).”.

(6) STATE OR INTERSTATE WATERSHED AQUATIC NUISANCE SPECIES MANAGEMENT PLAN.—Section 1204 (16 U.S.C. 4724) is amended—

(A) in subsection (a)—

(i) by striking the subsection designation and heading and inserting the following:

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

(ii) in paragraph (1)—

(I) by striking the matter preceding subparagraph (A) and inserting the following:

“(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—”;

(II) in subparagraph (A), by striking “technical and financial assistance” and inserting “technical, enforcement, or financial assistance (or any combination thereof)”; and

(III) in subparagraphs (A) and (B), by inserting “or within the interstate region involved” after “within the State” each place it appears;

(iii) in paragraph (2)—

(I) in subparagraph (B), by striking “and” at the end of the subparagraph;

(II) by redesignating subparagraph (C) as subparagraph (D);

(III) by inserting after subparagraph (B) the following:

“(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”;

(IV) in subparagraph (D), as so redesignated, by inserting “, and enabling legislation” before the period;

(iv) in paragraph (3)—

(I) in subparagraph (A)—

(aa) by inserting “or interstate organization” after “the State”; and

(bb) by inserting “Indian tribes,” after “local governments and regional entities,”; and

(II) in subparagraph (B), by inserting “or the appropriate official of an interstate organization” after “a State”; and

(v) in paragraph (4), by inserting “or the interstate organization” after “the Governor”;

(B) in subsection (b)(1)—

(i) by striking “or the Assistant Secretary, as appropriate under subsection (a),”; and

(ii) by striking “approved management plans” and inserting “management plans approved under subsection (a),”; and

(C) by adding at the end the following new subsection:

“(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.”.

(f) AUTHORIZATIONS OF APPROPRIATIONS.—Section 1301 (16 U.S.C. 4741) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (2);

(B) by striking paragraph (3) and inserting the following:

“(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;”; and

(C) by adding at the end the following new paragraphs:

“(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).”; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “1991, 1992, 1993, 1994, and 1995” and inserting “1997 through 2002”; and

(B) by striking paragraphs (1) through (7) and inserting the following:

“(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.”;

(3) by striking subsection (c) and inserting the following:

“(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.”; and

(4) by adding at the end the following new subsections:

“(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.”.

(g) REFERENCES TO APPROPRIATE COMMITTEES.—The Act (16 U.S.C. 4701 et seq.) is amended by striking “appropriate Committees” each place it appears and inserting “Congress”.

(h) TECHNICAL CORRECTIONS.—Public Law 101-646 (16 U.S.C. 4701 et seq.) is amended—

(1) in titles I, II, and IV, by striking the quotation marks at the beginning of any title, subtitle, section, subsection, paragraph, subparagraph, clause, subclause, or undesignated provision;

16 USC 4701,
941; 33 USC
2761.

(2) at the end of titles II and IV, by striking the closing quotation marks and the final period; and

(3) in section 1003—

16 USC 4702.

(A) by striking each single opening quotation mark and inserting double opening quotation marks; and

(B) by striking each single closing quotation mark and inserting double closing quotations marks.

16 USC 4701
note.

SEC. 3. STATUTORY CONSTRUCTION.

Nothing in this Act or the amendments made by this Act is intended to affect the authorities and responsibilities of the Great Lakes Fishery Commission established under article II of the Convention on Great Lakes Fisheries between the United States of America and Canada, signed at Washington on September 10, 1954 (hereafter in this section referred to as the “Convention”), including the authorities and responsibilities of the Great Lakes Fishery Commission—

(1) for developing and implementing a comprehensive program for eradicating or minimizing populations of sea lamprey in the Great Lakes watershed; and

(2) carrying out the duties of the Commission specified in the Convention (including any amendment thereto) and the Great Lakes Fishery Act of 1956 (16 U.S.C. 931 et seq.).

Approved October 26, 1996.

LEGISLATIVE HISTORY—H.R. 4283:

CONGRESSIONAL RECORD, Vol. 142 (1996):

Sept. 28, considered and passed House.

Oct. 3, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 32 (1996):

Oct. 26, Presidential statement.

