

104TH CONGRESS
2D SESSION

S. 1660

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.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 1996

Mr. GLENN (for himself, Mr. LEAHY, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. SARBANES, Mr. INOUE, Ms. MIKULSKI, Mr. JOHNSTON, Mr. LEVIN, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

APRIL 25, 1996

Ordered, that if and when reported, the bill be referred to the Committee on Commerce, Science, and Transportation for not to exceed 20 calendar days to report or be discharged

A BILL

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.

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

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) IN GENERAL.—This Act may be cited as the “Na-
5 tional Invasive Species Act of 1996”.

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

7 **SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC**
8 **NUISANCE PREVENTION AND CONTROL ACT**
9 **OF 1990.**

10 (a) FINDINGS; DEFINITIONS.—

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

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

15 “(2) when environmental conditions are favor-
16 able, nonindigenous species become established and
17 may disrupt the aquatic environment and economy
18 of affected nearshore areas;

19 “(3) the zebra mussel was unintentionally intro-
20 duced into the Great Lakes and has infested—

21 “(A) waters south of the Great Lakes, into
22 a good portion of the Mississippi River drain-
23 age;

24 “(B) waters west of the Great Lakes, into
25 the Arkansas River in Oklahoma; and

1 “(C) waters east of the Great Lakes, into
2 the Hudson River and Lake Champlain;” and

3 (B) in paragraph (4)—

4 (i) by inserting “by the zebra mussel
5 and ruffe, round goby, and other non-
6 indigenous species” after “other species”;

7 (ii) by striking the period and insert-
8 ing a semicolon; and

9 (iii) by adding at the end the fol-
10 lowing new paragraphs:

11 “(5) because the zebra mussel was discovered in
12 Lake Champlain in 1993, an opportunity exists to
13 act quickly to manage zebra mussels before the in-
14 festation of, and control costs for, zebra mussels es-
15 calate;

16 “(6) in 1992, the zebra mussel was discovered
17 at the northernmost reaches of the Chesapeake Bay
18 watershed;

19 “(7) the zebra mussel poses an imminent risk
20 of invasion in the main waters of the Chesapeake
21 Bay;

22 “(8) since the Chesapeake Bay is the largest re-
23 cipient of foreign ballast water on the East Coast,
24 there is a risk of further invasions of other non-
25 indigenous species;

1 “(9) the zebra mussel is only one example of
2 thousands of nonindigenous species that have be-
3 come established in the waters of the United States
4 and may be causing economic and ecological deg-
5 radation with respect to the natural resources of wa-
6 ters of the United States;

7 “(10) since the introduction in ballast water
8 discharges in the early 1980’s of ruffe, small perch-
9 like fish, ruffe—

10 “(A) have caused severe declines in popu-
11 lations of other species of fish in Duluth Har-
12 bor (in Minnesota and Wisconsin);

13 “(B) have spread to Lake Huron; and

14 “(C) are likely to spread quickly to most
15 other waters in North America if action is not
16 taken promptly to control their spread;

17 “(11) examples of nonindigenous species that,
18 as of the date of enactment of the National Invasive
19 Species Act of 1996, infest coastal waters of the
20 United States and that have the potential for caus-
21 ing adverse economic and ecological effects are—

22 “(A) the mitten crab (*Eriochei sinensis*)
23 that has become established on the Pacific
24 Coast;

1 “(B) the green crab (*Carcinus maenus*)
2 that has become established in the coastal wa-
3 ters of the Atlantic Ocean;

4 “(C) the brown mussel (*Perna perna*) that
5 has become established along the Gulf of Mex-
6 ico; and

7 “(D) certain shellfish pathogens;

8 “(12) if preventive management measures are
9 not taken nationwide to prevent and control uninten-
10 tionally introduced nonindigenous aquatic species in
11 a timely manner, further introductions and infesta-
12 tions of species that are as destructive, or more de-
13 structive, than the zebra mussel or the ruffe infesta-
14 tions, may occur;

15 “(13) once introduced into the waters of the
16 United States, nonindigenous aquatic nuisance spe-
17 cies are unintentionally transported and introduced
18 into inland lakes and rivers by recreational boaters,
19 commercial barge traffic, and a variety of other
20 pathways;

21 “(14) resolving the problems associated with
22 nonindigenous aquatic nuisance species will require
23 the participation and cooperation of the Federal
24 Government and State governments, and investment
25 in the development of prevention technologies; and

1 “(15) preventing—

2 “(A) the introduction of aquatic nuisance
3 species into the waters of the United States is
4 the responsibility of the Federal Government;
5 and

6 “(B) the spread of aquatic nuisance spe-
7 cies—

8 “(i) within the continental United
9 States is a role that is jointly shared by
10 the Federal Government and State govern-
11 ments; and

12 “(ii) in a State, is the responsibility of
13 that State, in cooperation with the tribal
14 governments of the Indian tribes located
15 within that State.”.

16 (2) DEFINITIONS.—Section 1003 (16 U.S.C.
17 4702) is amended—

18 (A) in paragraph (3), by striking “assist-
19 ant Secretary” and inserting “Assistant Sec-
20 retary”;

21 (B) by redesignating paragraphs (9)
22 through (15) as paragraphs (12) through (18),
23 respectively; and

24 (C) by inserting after paragraph (8) the
25 following:

1 “(9) ‘Great Lakes region’ means the 8 States
2 that border on the Great Lakes;

3 “(10) ‘Indian tribe’ means any Indian tribe,
4 band, nation, or other organized group or commu-
5 nity, including any Alaska Native village or regional
6 corporation (as defined in or established pursuant to
7 the Alaska Native Claims Settlement Act (43 U.S.C.
8 1601 et seq.)) that is recognized as eligible for the
9 special programs and services provided by the
10 United States to Indians because of their status as
11 Indians; and

12 “(11) ‘interstate organization’ means an inter-
13 jurisdictional entity—

14 “(A) established by—

15 “(i) an interstate compact that is ap-
16 proved by Congress;

17 “(ii) a Federal statute; or

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

21 “(B)(i) that represents 2 or more—

22 “(I) States or political subdivisions
23 thereof; or

24 “(II) Indian tribes; or

25 “(ii) that represents—

1 “(I) 1 or more States or political sub-
2 divisions thereof; and

3 “(II) 1 or more Indian tribes; or

4 “(iii) that represents the Federal Govern-
5 ment (or any political subdivision thereof) and
6 1 or more foreign governments (or any political
7 subdivisions thereof); and

8 “(C) has jurisdiction over, serves as forum
9 for coordinating, or otherwise has a role or re-
10 sponsibility for the management of any land, or
11 other natural resource.”.

12 (b) AQUATIC NUISANCE SPECIES CONTROL PRO-
13 GRAM.—

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

17 **“Subtitle B—Prevention of Unin-**
18 **tentional Introductions of Non-**
19 **indigenous Aquatic Species”**

20 (2) NONINDIGENOUS AQUATIC NUISANCE SPE-
21 CIES.—Section 1101 (16 U.S.C. 4711) is amended
22 to read as follows:

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

25 “(a) GREAT LAKES GUIDELINES.—

1 “(1) IN GENERAL.—Not later than 6 months
2 after the date of enactment of this Act, the Sec-
3 retary shall issue voluntary guidelines to prevent the
4 introduction and spread of aquatic nuisance species
5 into the Great Lakes through the exchange of bal-
6 last water of vessels prior to entering those waters.

7 “(2) CONTENT OF GUIDELINES.—The guide-
8 lines issued under this subsection shall—

9 “(A) ensure to the maximum extent prac-
10 ticable that ballast water containing aquatic
11 nuisance species is not discharged into the
12 Great Lakes;

13 “(B) protect the safety of—

14 “(i) each vessel; and

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

17 “(C) take into consideration different ves-
18 sel operating conditions; and

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

21 “(3) EDUCATION AND TECHNICAL ASSISTANCE
22 PROGRAMS.—Not later than 1 year after the date of
23 enactment of this Act, the Secretary shall carry out
24 education and technical assistance programs and

1 other measures to encourage participation in the
2 guidelines issued under this subsection.

3 “(b) REGULATIONS.—

4 “(1) IN GENERAL.—Not later than 2 years
5 after the date of enactment of the Act, the Sec-
6 retary, in consultation with the Task Force, shall
7 issue regulations to prevent the introduction and
8 spread of aquatic nuisance species into the Great
9 Lakes through the ballast water of vessels.

10 “(2) CONTENT OF REGULATIONS.—The regula-
11 tions issued under this subsection shall—

12 “(A) apply to all vessels that enter a
13 United States port on the Great Lakes after op-
14 erating on the waters beyond the exclusive eco-
15 nomic zone;

16 “(B) require a vessel to—

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

21 “(ii) carry out an exchange of ballast
22 water in other waters where the exchange
23 does not pose a threat of infestation or
24 spread of aquatic nuisance species in the
25 Great Lakes and other waters of the

1 United States, as recommended by the
2 Task Force under section 1102(a)(1); or

3 “(iii) use environmentally sound alter-
4 native ballast water management methods
5 if the Secretary determines that such alter-
6 native methods are as effective as ballast
7 water exchange in preventing and control-
8 ling infestations of aquatic nuisance spe-
9 cies;

10 “(C) not affect or supersede any require-
11 ments or prohibitions pertaining to the dis-
12 charge of ballast water into waters of the
13 United States under the Federal Water Pollu-
14 tion Control Act (33 U.S.C. 1251 et seq.);

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

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

1 “(F) request the Secretary of the Treasury
2 to withhold or revoke the clearance required by
3 section 4197 of the Revised Statutes (46 U.S.C.
4 App. 91) of a vessel, the owner or operator of
5 which is in violation of the regulations;

6 “(G) protect the safety of—

7 “(i) each vessel; and

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

10 “(H) take into consideration different op-
11 erating conditions; and

12 “(I) be based on the best scientific infor-
13 mation available.

14 “(3) ADDITIONAL REGULATIONS.—In addition
15 to promulgating regulations under paragraph (1),
16 the Secretary, in consultation with the Task Force,
17 shall, not later than 2 years after November 4,
18 1992, issue regulations to prevent the introduction
19 and spread of aquatic nuisance species into the
20 Great Lakes through ballast water carried on vessels
21 that enter a United States port on the Hudson River
22 north of the George Washington Bridge.

23 “(c) VOLUNTARY NATIONAL GUIDELINES.—

24 “(1) IN GENERAL.—Not later than 1 year after
25 the date of enactment of the National Invasive Spe-

1 cies Act of 1996, the Secretary shall issue voluntary
2 guidelines to prevent the unintentional introduction
3 and spread of nonindigenous species in waters of the
4 United States by ballast water operations and other
5 operations of vessels (as determined by the Sec-
6 retary).

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

9 “(A) ensure to the maximum extent prac-
10 ticable that aquatic nuisance species are not
11 discharged into the waters of the United States
12 from vessels;

13 “(B) apply to all vessels that operate in
14 waters of the United States;

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

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

22 “(ii) exchange the ballast water of the
23 vessel in other waters where the exchange
24 does not pose a threat of infestation or
25 spread of nonindigenous species in the wa-

1 ters of the United States, as recommended
2 by the Task Force under section
3 1102(a)(1); or

4 “(iii) use environmentally sound alter-
5 native ballast water management methods,
6 including modification of the vessel ballast
7 tanks and intake systems, if the Secretary
8 determines that such alternative methods
9 are at least as effective as ballast water ex-
10 change in preventing and controlling infes-
11 tations of aquatic nuisance species;

12 “(D) direct vessels to carry out manage-
13 ment practices that the Secretary determines to
14 be necessary to reduce the probability of unin-
15 tentional nonindigenous species transfer result-
16 ing from—

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

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

22 “(E) provide for recordkeeping that shall
23 be maintained on board each vessel and made
24 available for inspection, upon request of the
25 Secretary and in a matter consistent with sub-

1 section (h), in order to enable the Secretary to
2 determine compliance with the guidelines, in-
3 cluding—

4 “(i) with respect to each ballast water
5 exchange referred to in clause (ii), report-
6 ing on the precise location and thorough-
7 ness of the exchange; and

8 “(ii) any other information that the
9 Secretary considers necessary to assess the
10 rate of effective compliance with the guide-
11 lines;

12 “(F) provide for sampling procedures to
13 monitor compliance with the guidelines;

14 “(G) protect the safety of—

15 “(i) each vessel; and

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

18 “(H) take into consideration—

19 “(i) variations in the characteristics of
20 point of origin and receiving water bodies;

21 “(ii) variations in the ecological condi-
22 tions of waters and coastal areas of the
23 United States; and

24 “(iii) different operating conditions;
25 and

1 “(I) be based on the best scientific infor-
2 mation available.

3 “(3) EDUCATION AND TECHNICAL ASSISTANCE
4 PROGRAMS.—Not later than 1 year after the date of
5 enactment of the National Invasive Species Act of
6 1996, the Secretary shall carry out education and
7 technical assistance programs and other measures to
8 encourage the participation in the guidelines issued
9 under this subsection.

10 “(d) PERIODIC REVIEW AND REVISION.—

11 “(1) IN GENERAL.—Not later than 3 years
12 after the date of enactment of the National Invasive
13 Species Act of 1996, and not less frequently than
14 every 3 years thereafter, the Secretary shall, in ac-
15 cordance with the criteria developed by the Task
16 Force under paragraph (3)—

17 “(A) assess the compliance by vessels with
18 the voluntary guidelines issued under this sec-
19 tion and the regulations promulgated under this
20 Act;

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

24 “(C) assess the effectiveness of the vol-
25 untary guidelines and regulations referred to in

1 subparagraph (A) in reducing the introduction
2 and spread of aquatic nuisance species by ves-
3 sels; and

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

6 “(i) revise and reissue the guidelines
7 and regulations referred to in paragraph
8 (1); and

9 “(ii) promulgate additional regulations
10 pursuant to subsection (e)(1).

11 “(2) SPECIAL REVIEW AND REVISION.—Not
12 later than 90 days after the Task Force makes a re-
13 quest to the Secretary for a special review and revi-
14 sion for coastal and inland waterways designated by
15 the Task Force, the Secretary shall—

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

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

22 “(i) revise and reissue those guide-
23 lines; and

24 “(ii) promulgate additional regula-
25 tions.

1 “(3) CRITERIA FOR EFFECTIVENESS.—Not
2 later than 18 months after the date of enactment of
3 the National Invasive Species Act of 1996, the Task
4 Force shall submit to the Secretary criteria for de-
5 termining the adequacy and effectiveness of the vol-
6 untary guidelines issued under subsection (c).

7 “(e) AUTHORITY OF SECRETARY.—

8 “(1) GENERAL REGULATIONS.—If, on the basis
9 of a periodic review conducted under paragraph (1)
10 of subsection (d) or a special review conducted under
11 paragraph (2) of that subsection, the Secretary de-
12 termines that—

13 “(A) the rate of effective compliance (as
14 determined by the Secretary) with the guide-
15 lines issued pursuant to subsection (c) is inad-
16 equate; or

17 “(B) the reporting by vessels pursuant to
18 those guidelines is not adequate for the Sec-
19 retary to assess the compliance with those
20 guidelines and provide a rate of compliance of
21 vessels, including the assessment of the rate of
22 compliance of vessels under subsection (d)(2),
23 the Secretary shall promulgate regulations that meet
24 the requirements of paragraph (2).

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

4 “(A) shall—

5 “(i) make mandatory the require-
6 ments included in the voluntary guidelines
7 issued under subsection (e); and

8 “(ii) provide for the enforcement of
9 the regulations; and

10 “(B) may be regional in scope.

11 “(3) REVOCATION OF CLEARANCE.—The regu-
12 lations promulgated under this subsection shall re-
13 quest the Secretary of the Treasury to withhold or
14 revoke the clearance of a vessel required by section
15 4197 of the Revised Statutes (46 U.S.C. App. 91),
16 if the owner or operator of that vessel is in violation
17 of the regulations.

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

1 “(g) CRIMINAL PENALTIES.—Any person who know-
2 ingly violates the regulations promulgated under sub-
3 section (e) is guilty of a class C violation.

4 “(h) COORDINATION WITH OTHER AGENCIES.—In
5 carrying out the programs under this section, the Sec-
6 retary is encouraged to, to the maximum extent prac-
7 ticable, arrange to use the expertise, facilities, members,
8 or personnel of established agencies and organizations
9 that have routine contact with vessels, including the Ani-
10 mal and Plant Health Inspection Service of the Depart-
11 ment of Agriculture, the National Cargo Bureau, port ad-
12 ministrations, and ship pilots’ associations.

13 “(i) CONSULTATION WITH CANADA, MEXICO, AND
14 OTHER FOREIGN GOVERNMENTS.—In developing the
15 guidelines issued, and regulations promulgated, under this
16 section, the Secretary is encouraged to consult with the
17 Government of Canada, the Government of Mexico, and
18 any other government of a foreign country that the Sec-
19 retary, in consultation with the Task Force, determines
20 to be necessary to develop and implement an effective
21 international program for preventing the unintentional in-
22 troduction and spread of nonindigenous species in the wa-
23 ters of North America (as defined by the Secretary).

24 “(j) INTERNATIONAL COOPERATION.—The Sec-
25 retary, in cooperation with the International Maritime Or-

1 ganization of the United Nations and the Commission on
 2 Environmental Cooperation established pursuant to the
 3 North American Free Trade Agreement, is encouraged to
 4 enter into negotiations with the governments of foreign
 5 countries to develop and implement an effective inter-
 6 national program for preventing the unintentional intro-
 7 duction and spread of nonindigenous species in the waters
 8 of North America (as defined by the Secretary).”.

9 (c) NATIONAL BALLAST WATER MANAGEMENT IN-
 10 FORMATION.—Section 1102 (16 U.S.C. 4712) is amend-
 11 ed—

12 (1) by striking the section heading and insert-
 13 ing the following new section heading:

14 **“SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT IN-
 15 FORMATION.”;**

16 (2) in subsection (a)—

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

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

23 (C) by striking subsection (b) and insert-
 24 ing the following:

1 “(b) ECOLOGICAL AND BALLAST DISCHARGE SUR-
2 VEYS.—

3 “(1) ECOLOGICAL SURVEYS.—

4 “(A) IN GENERAL.—The Task Force, in
5 cooperation with the Secretary, shall conduct
6 ecological surveys of the Chesapeake Bay, San
7 Francisco Bay, Honolulu Harbor, Prince Wil-
8 liam Sound, and other waters that the Task
9 Force determines—

10 “(i) to be highly susceptible to inva-
11 sion by aquatic nuisance species resulting
12 from ballast water operations and other
13 operations of vessels; and

14 “(ii) to require further study.

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

19 “(i) examine the attributes and pat-
20 terns of invasions of aquatic nuisance spe-
21 cies; and

22 “(ii) provide an estimate of the effec-
23 tiveness of ballast water management and
24 other vessel management guidelines issued,
25 and regulations promulgated, under this

1 subtitle in abating invasions of aquatic nui-
2 sance species in the waters that are the
3 subject of the survey.

4 “(2) BALLAST DISCHARGE SURVEYS.—

5 “(A) IN GENERAL.—The Secretary, in co-
6 operation with the Task Force, shall conduct
7 surveys of ballast discharge rates and practices
8 in the waters referred to in paragraph (1)(A)
9 on the basis of the criteria under clauses (i)
10 and (ii) of such paragraph.

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

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

17 “(ii) assess the effectiveness of vol-
18 untary guidelines issued, and regulations
19 promulgated, under this subtitle in altering
20 ballast discharge practices to reduce the
21 probability of accidental introductions of
22 aquatic nuisance species.

23 “(c) GRANTS TO CHESAPEAKE RESEARCH CONSOR-
24 TIUM AND LOUISIANA UNIVERSITIES MARINE CONSOR-
25 TIUM.—Subject to the availability of appropriations, for

1 each of fiscal years 1997 through 2002, the Secretary of
2 the Smithsonian Institution shall award—

3 “(1) a grant in an amount not to exceed
4 \$750,000 to the Chesapeake Research Consortium
5 to fund research on nonindigenous aquatic nuisance
6 species prevention and control in the Chesapeake
7 Bay through competitive grants to universities and
8 research institutions; and

9 “(2) a grant in an amount not to exceed
10 \$500,000 to the Louisiana Universities Marine Con-
11 sortium to fund research on nonindigenous aquatic
12 nuisance species prevention and control in the Gulf
13 of Mexico through competitive grants to universities
14 and research institutions.

15 “(d) NATIONAL BALLAST INFORMATION CLEARING-
16 HOUSE.—

17 “(1) IN GENERAL.—The Secretary of the
18 Smithsonian Institution, acting through the Smith-
19 sonian Environmental Research Center, shall develop
20 and maintain, in consultation with the Task Force,
21 a clearinghouse of national data concerning—

22 “(A) ballasting practices;

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

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

3 “(2) REPORT.—The head of the Smithsonian
4 Environmental Research Center shall prepare and
5 submit to the Secretary of the Smithsonian Institu-
6 tion, on a biannual basis, a report that synthesizes
7 and analyzes the data referred to in paragraph (1)
8 relating to—

9 “(A) ballast water delivery and manage-
10 ment; and

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

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

17 **“SEC. 1103. NAVAL BALLAST WATER PROGRAM.**

18 “Subject to operational conditions, the Chief of Naval
19 Operations of the Department of the Navy, in consultation
20 with the Secretary, the Task Force, and the International
21 Maritime Organization, shall implement a ballast water
22 management program for the seagoing fleet of the Navy
23 to limit the risk of invasion by nonindigenous species re-
24 sulting from releases of ballast water.

1 **“SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.**
2

3 “(a) **TECHNOLOGIES AND PRACTICES DEFINED.—**

4 For purposes of this section, the term ‘technologies and
5 practices’ means those technologies and practices that—

6 “(1) may be retrofitted—

7 “(A) on existing vessels or incorporated in
8 new vessel designs; and

9 “(B) on existing land-based ballast water
10 treatment facilities;

11 “(2) may be designed into new water treatment
12 facilities;

13 “(3) are operationally practical;

14 “(4) are safe for a vessel and crew;

15 “(5) are environmentally sound;

16 “(6) are cost-effective;

17 “(7) a vessel operator is capable of monitoring;

18 and

19 “(8) are effective against a broad range of
20 aquatic nuisance species.

21 “(b) **DEMONSTRATION PROGRAM.—**

22 “(1) **IN GENERAL.—**During the 18-month pe-
23 riod beginning on the date that funds are made
24 available by appropriations pursuant to section
25 1301(e), the Secretary of the Interior, in cooperation
26 with the Secretary, shall conduct a ballast water

1 management demonstration program to demonstrate
2 technologies and practices to prevent aquatic non-
3 indigenous species from being introduced into and
4 spread through ballast water in the Great Lakes and
5 other waters of the United States.

6 “(2) UNITED STATES SHIPYARDS AND SHIP RE-
7 PAIR FACILITIES.—The installation and construction
8 of the technologies and practices used in the dem-
9 onstration program conducted under this subsection
10 shall be performed in a United States shipyard or
11 ship repair facility.

12 “(3) VESSEL SELECTION.—In demonstrating
13 technologies and practices on vessels under this sub-
14 section, the Secretary of the Interior shall—

15 “(A) use only vessels that—

16 “(i) are approved by the Secretary;

17 “(ii) have ballast systems conducive to
18 testing aboard-vessel or land-based tech-
19 nologies and practices applicable to a sig-
20 nificant number of merchant vessels;

21 “(iii) are predominantly owned by citi-
22 zens of the United States (as determined
23 by the Secretary); and

24 “(iv) are—

1 “(I) publicly or privately owned;

2 and

3 “(II) in active use for trade or

4 other cargo shipment purposes during

5 the demonstration; and

6 “(B) seek to use a variety of vessel types,

7 including vessels that—

8 “(i) call on ports in the United States

9 and on the Great Lakes; and

10 “(ii) are operated along the other

11 major coasts of the United States and in-

12 land waterways, including the Prince Wil-

13 liam Sound, San Francisco Bay, and

14 Chesapeake Bay.

15 “(4) SELECTION OF TECHNOLOGIES AND PRAC-

16 TICES.—If a report on a study on ships’ ballast op-

17 erations conducted by the National Research Council

18 Marine Board of the National Academy of Sciences

19 is available at the time that the Secretary of the In-

20 terior selects technologies and practices for dem-

21 onstration under this subsection, the Secretary of

22 the Interior shall, in making such selections, give

23 priority to any technologies and practices identified

24 as promising by the Board in such report.

1 “(5) REPORT.—Not later than 3 years after the
2 date of enactment of the National Invasive Species
3 Act of 1996, the Secretary of the Interior shall pre-
4 pare and submit a report to Congress on the dem-
5 onstration program conducted pursuant to this sec-
6 tion. The report shall include findings and rec-
7 ommendations of the Secretary of the Interior con-
8 cerning technologies and practices.

9 “(c) AUTHORITIES; CONSULTATION AND COOPERA-
10 TION WITH INTERNATIONAL MARITIME ORGANIZATION
11 AND TASK FORCE.

12 “(1) AUTHORITIES.—In conducting the dem-
13 onstration program under subsection (b), the Sec-
14 retary of the Interior may—

15 “(A) enter into cooperative agreements
16 with appropriate officials of other agencies of
17 the Federal Government, agencies of States and
18 political subdivisions thereof, and private enti-
19 ties;

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

22 “(C) accept donations of property and
23 services.

24 “(2) CONSULTATION AND COOPERATION.—The
25 Secretary of the Interior shall consult and cooperate

1 with the International Maritime Organization and
2 the Task Force in carrying out this section.”.

3 (e) AMENDMENTS TO SUBTITLE C.—

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

7 **“Subtitle C—Prevention and Con-**
8 **trol of Aquatic Nuisance Species**
9 **Dispersal”.**

10 (2) TASK FORCE.—Section 1201 (16 U.S.C.
11 4721) is amended—

12 (A) in subsection (b)—

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

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

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

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

20 (B) in subsection (c), by inserting “, the
21 Lake Champlain Basin Program, the Chesapeake
22 Bay Program,” before “and State agen-
23 cies”.

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

1 (A) in subsection (f)(1)(A), by inserting
2 “and impacts” after “economic risks”; and
3 (B) in subsection (i)—
4 (i) in paragraph (1)—
5 (I) by striking “(1) IN GEN-
6 ERAL.—The Task Force” and insert-
7 ing the following:
8 “(1) ZEBRA MUSSEL.—
9 “(A) IN GENERAL.—The Task Force”;
10 (II) by striking “(A) research”
11 and inserting the following:
12 “(i) research”;
13 (III) by striking “(B) tracking”
14 and inserting the following:
15 “(ii) tracking”;
16 (IV) by striking “(C) develop-
17 ment” and inserting the following:
18 “(iii) development”; and
19 (V) by striking “(D) provision”
20 and inserting the following:
21 “(iv) provision”;
22 (ii) in paragraph (2), by striking “(2)
23 PUBLIC FACILITY RESEARCH AND DEVEL-
24 OPMENT.—” and inserting the following:

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

3 (iii) in subparagraph (B) of para-
4 graph (1), as so redesignated, by striking
5 the first sentence and inserting the fol-
6 lowing: “The Assistant Secretary, in con-
7 sultation with the Task Force, shall de-
8 velop a program of research, technology
9 development, and demonstration for the
10 environmentally sound control of zebra
11 mussels in and around public facilities.”;

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

15 “(C) VOLUNTARY GUIDELINES.—Not later
16 than 1 year after the date of enactment of this
17 subparagraph, the Task Force shall develop and
18 submit to the Secretary for issuance by the Sec-
19 retary, voluntary guidelines for controlling the
20 spread of the zebra mussel through recreational
21 activities, including boating and fishing. Not
22 later than the date specified in the preceding
23 sentence, the Secretary shall issue voluntary
24 guidelines that incorporate the guidelines devel-

1 oped by the Task Force under this subpara-
2 graph.”; and

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

5 “(2) DISPERSAL CONTAINMENT ANALYSIS.—

6 “(A) RESEARCH.—The Administrator of
7 the Environmental Protection Agency, in co-
8 operation with the National Science Foundation
9 and the Task Force, shall provide research
10 grants on a competitive basis for projects
11 that—

12 “(i) identify environmentally sound
13 methods for controlling the dispersal and
14 spread of aggressively invading species,
15 such as the zebra mussel; and

16 “(ii) adhere to research protocols de-
17 veloped pursuant to section 1202(f)(2).

18 “(B) AUTHORIZATION OF APPROPRIA-
19 TIONS.—There are authorized to be appro-
20 priated to the Environmental Protection Agency
21 to carry out this paragraph, \$500,000.

22 “(3) DISPERSAL BARRIER DEMONSTRATION.—

23 “(A) IN GENERAL.—The Assistant Sec-
24 retary, in consultation with the Task Force,
25 shall investigate and identify environmentally

1 sound methods for preventing and reducing the
2 dispersal of nonindigenous nuisance aquatic
3 species between the Great Lakes-Saint Law-
4 rence drainage and the Mississippi River drain-
5 age through the Chicago River Ship and Sani-
6 tary Canal, including any of those methods that
7 could be incorporated into the operation or con-
8 struction of the lock system of the Chicago
9 River Ship and Sanitary Canal.

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

15 “(i) which of the methods that are
16 identified under the study conducted under
17 this paragraph are most promising with re-
18 spect to preventing and reducing the dis-
19 persal of nonindigenous nuisance aquatic
20 species; and

21 “(ii) ways to incorporate those meth-
22 ods into ongoing operations of the United
23 States Army Corps of Engineers that are
24 conducted at the Chicago River Ship and
25 Sanitary Canal.

1 “(C) AUTHORIZATION OF APPROPRIA-
2 TIONS.—There are authorized to be appro-
3 priated to the Department of the Army, to
4 carry out this paragraph, \$750,000.

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

12 “(5) TECHNICAL ASSISTANCE.—The Great
13 Lakes Environmental Research Laboratory of the
14 National Oceanic and Atmospheric Administration
15 shall provide technical assistance to the Lake Cham-
16 plain Research Consortium to assist in the research
17 conducted by that consortium pursuant to this sub-
18 section.”.

19 (4) IMPLEMENTATION.—Section 1202(j) (16
20 U.S.C. 4722(j)) is amended—

21 (A) in paragraph (1), by striking “Not
22 later than 18 months after the date of the en-
23 actment of this Act, the Director” and inserting
24 “The Director”; and

1 (B) by adding at the end the following new
2 paragraph:

3 “(3) ENFORCEMENT ASSISTANCE.—To the ex-
4 tent allowable by law, and in a manner consistent
5 with section 141 of title 14, United States Code, the
6 Director and the Under Secretary may provide en-
7 forcement assistance pursuant to a management
8 plan that is approved by the Director, the Secretary,
9 or the Under Secretary for the control of nonindige-
10 nous aquatic nuisance species upon request of a
11 State or Indian tribe.”.

12 (5) REGIONAL COORDINATION.—Section 1203
13 (16 U.S.C. 4723) is amended—

14 (A) by striking the section heading and in-
15 serting the following new section heading:

16 **“SEC. 1203. REGIONAL COORDINATION.”;**

17 (B) in the matter preceding paragraph (1),
18 by inserting “region” before “representatives”;

19 (C) in paragraphs (1) through (6), by
20 striking “Great Lakes” each place it appears
21 and inserting “Great Lakes region”; and

22 (D) by adding at the end the following new
23 subsection:

24 “(d) REGIONAL PANELS.—The Task Force shall—

1 “(1) encourage the development and use of re-
 2 gional panels and other similar entities in regions
 3 other than the Great Lakes (including providing fi-
 4 nancial assistance for the development and use of
 5 those entities) to carry out, with respect to those re-
 6 gions, activities that are similar to the activities de-
 7 scribed in subsection (a); and

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

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

14 (A) in subsection (a)—

15 (i) by striking the heading and insert-
 16 ing the following:

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

19 (ii) in paragraph (1)—

20 (I) by striking the matter pre-
 21 ceding subparagraph (A) and insert-
 22 ing the following:

23 “(1) IN GENERAL.—After providing notice and
 24 opportunity for public comment, the Governor of
 25 each State may prepare and submit, or the Gov-

1 errors of the States and the governments of the In-
 2 dian tribes involved in an interstate organization,
 3 may jointly prepare and submit—”;

4 (II) in subparagraph (A), by
 5 striking “technical and financial as-
 6 sistance” and inserting “technical, en-
 7 forcement, or financial assistance (or
 8 any combination thereof)”; and

9 (III) in subparagraphs (A) and
 10 (B), by inserting “or within the inter-
 11 state region involved” after “within
 12 the State” each place it appears;

13 (iii) in paragraph (2)—

14 (I) in subparagraph (B), by
 15 striking “and” at the end of the sub-
 16 paragraph;

17 (II) by redesignating subpara-
 18 graph (C) as subparagraph (D);

19 (III) by inserting after subpara-
 20 graph (B) the following:

21 “(C) identify any new authority that the
 22 State (or any State or Indian tribe involved in
 23 the interstate organization) does not have at
 24 the time of the development of the plan that
 25 may be necessary for the State (or any State or

1 Indian tribe involved in the interstate organiza-
2 tion) to protect public health, property, and the
3 environment from harm by aquatic nuisance spe-
4 cies; and”; and

5 (IV) in subparagraph (D), as re-
6 designated, by inserting “, and ena-
7 bling legislation” before the period;

8 (iv) in paragraph (3)—

9 (I) in subparagraph (A)—

10 (aa) by inserting “or inter-
11 state organization” after “the
12 State”; and

13 (bb) by inserting “Indian
14 tribes,” after “local govern-
15 ments,”; and

16 (II) in subparagraph (B), by in-
17 serting “or the appropriate official of
18 an interstate organization” after “a
19 State”; and

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

23 (B) in subsection (b)(1)—

1 (i) by striking “or the Assistant Sec-
2 retary, as appropriate under subsection (a)
3 of this section,”; and

4 (ii) by striking “approved manage-
5 ment plans” and inserting “management
6 plans approved under subsection (a)”.

7 (f) AUTHORIZATIONS OF APPROPRIATIONS.—Section
8 1301 (16 U.S.C. 4741) is amended—

9 (1) in subsection (a)—

10 (A) by striking “and” at the end of para-
11 graph (2);

12 (B) by striking paragraph (3) and insert-
13 ing the following:

14 “(3) to the department in which the Coast
15 Guard is operating to carry out section 1101—

16 “(A) \$2,000,000 for each of fiscal years
17 1997 through 1998; and

18 “(B) \$3,000,000 for each of fiscal years
19 1999 through 2002;”; and

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

22 “(4) for each of fiscal years 1997 through
23 2002, to carry out paragraphs (1) and (2) of section
24 1102(b)—

1 “(A) \$1,000,000 to the Department of the
2 Interior, to be used by the Director; and

3 “(B) \$1,000,000 to the Department of
4 Transportation, to be used by the Secretary of
5 Transportation; and

6 “(5) for each of fiscal years 1997 through
7 2002, \$1,750,000 to the Smithsonian Institution, of
8 which—

9 “(A) \$1,250,000 shall be used to carry out
10 section 1102(e); and

11 “(B) \$500,000 shall be used to carry out
12 section 1102(d).”;

13 (2) in subsection (b)—

14 (A) in the matter preceding paragraph (1),
15 by striking “1991, 1992, 1993, 1994, and
16 1995” and inserting “1997 through 2002”; and

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

19 “(1) \$6,000,000 to the Department of the Inte-
20 rior, to be used by the Director to carry out sections
21 1202 and 1209;

22 “(2) \$1,000,000 to the Department of Com-
23 merce, to be used by the Under Secretary to carry
24 out section 1202;

1 “(3) \$1,625,000 to fund aquatic nuisance spe-
2 cies prevention and control research under section
3 1202(i) at the Great Lakes Environmental Research
4 Laboratory of the National Oceanic and Atmos-
5 pheric Administration and the Lake Champlain Re-
6 search Consortium, of which \$500,000 shall be used
7 by the Lake Champlain Research Consortium;

8 “(4) \$5,000,000 for competitive grants for uni-
9 versity research on aquatic nuisance species under
10 section 1202(f)(3), of which—

11 “(A) \$4,000,000 shall be used to fund
12 grants under section 206 of the National Sea
13 Grant College Program Act (33 U.S.C. 1121 et
14 seq.) and grants to colleges for the benefit of
15 agriculture and the mechanic arts referred to in
16 the first section of the Act of August 30, 1890
17 (26 Stat. 417, chapter 841; 7 U.S.C. 322); and

18 “(B) \$1,000,000 shall be used to fund
19 grants through the Cooperative Fisheries and
20 Wildlife Research Unit Program of the United
21 States Fish and Wildlife Service;

22 “(5) \$3,000,000 to the Department of the
23 Army, to be used by the Assistant Secretary to carry
24 out section 1202(i)(1)(B); and

1 “(6) \$300,000 to the Department of the Inte-
2 rior, to be used by the Director to fund regional
3 panels and other similar entities under section
4 1203(d), of which \$100,000 shall be used to fund
5 activities of the Great Lakes Commission;”;

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

8 “(c) GRANTS FOR STATE MANAGEMENT PRO-
9 GRAMS.—There are authorized to be appropriated for each
10 of fiscal years 1997 through 2001, \$2,500,000 to the De-
11 partment of the Interior, to be used by the Director.”; and

12 (4) by adding at the end the following new sub-
13 section:

14 “(e) BALLAST WATER MANAGEMENT DEMONSTRA-
15 TION PROGRAM.—There are authorized to be appropriated
16 to the Department of the Interior \$2,500,000 to carry out
17 section 1104.”.

18 **SEC. 3. STATUTORY CONSTRUCTION.**

19 Nothing in this Act or the amendments made by this
20 Act is intended to affect the authorities and responsibil-
21 ities of the Great Lakes Fishery Commission established
22 under article II of the Convention on Great Lakes Fish-
23 eries between the United States of America and Canada,
24 signed at Washington on September 10, 1954 (hereafter
25 in this section referred to as the “Convention”), including

1 the authorities and responsibilities of the Great Lakes
2 Fishery Commission—

3 (1) for developing and implementing a com-
4 prehensive program for eradicating or minimizing
5 populations of sea lamprey in the Great Lakes wa-
6 tershed; and

7 (2) carrying out the duties of the Commission
8 specified in the Convention (including any amend-
9 ment thereto) and the Great Lakes Fishery Act of
10 1956 (16 U.S.C. 931 et seq.).

○