

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 938

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

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## IN THE SENATE OF THE UNITED STATES

JUNE 16 (legislative day, JUNE 5), 1995

Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To provide for ballast water management to prevent aquatic nonindigenous species from being introduced and spread 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) SHORT TITLE.—This Act may be cited as the  
5 “Chesapeake Bay Ballast Water Management Act of  
6 1995”.

7 (b) REFERENCES.—Whenever in this Act an amend-  
8 ment or repeal is expressed in terms of an amendment

1 to or repeal of a section or other provision, the reference  
2 shall be considered to be made to a section or other provi-  
3 sion of the Nonindigenous Aquatic Nuisance Prevention  
4 and Control Act of 1990 (16 U.S.C. 4701 et seq.).

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

8 (a) AQUATIC NUISANCE SPECIES CONTROL PRO-  
9 GRAM.—Section 1101 (16 U.S.C. 4711) is amended—

10 (1) by striking the heading and inserting the  
11 following new heading:

12 **“SEC. 1101. AQUATIC NUISANCE SPECIES CONTROL PRO-**  
13 **GRAM.”;**

14 (2) by striking subsection (a) and inserting the  
15 following new subsection:

16 “(a) GUIDELINES.—

17 “(1) IN GENERAL.—Not later than 2 years  
18 after the date of enactment of the Ballast Water  
19 Management Act of 1995, the Secretary shall issue  
20 voluntary guidelines to prevent the introduction and  
21 spread of aquatic nuisance species into the waters of  
22 the United States that result from the release of bal-  
23 last water.

24 “(2) CONTENTS OF GUIDELINES.—The guide-  
25 lines issued under this subsection shall—

1           “(A) ensure that, to the maximum extent  
2 practicable, ballast water containing aquatic  
3 nuisance species is not discharged into the wa-  
4 ters of the United States;

5           “(B) take into consideration—

6           “(i) variations in the ecological condi-  
7 tions of coastal waters of the United  
8 States; and

9           “(ii) different vessel operating condi-  
10 tions;

11          “(C) not jeopardize the safety of—

12           “(i) any vessel; or

13           “(ii) the crew and passengers of any  
14 vessel;

15          “(D) provide for reporting by vessels con-  
16 cerning ballast water practices; and

17          “(E) be based on the best scientific infor-  
18 mation available.”;

19          (3) in subsection (b)—

20           (A) by striking the paragraph (3) added by  
21 section 302(b)(1) of the Water Resources De-  
22 velopment Act of 1992 (106 Stat. 4839); and

23           (B) in the paragraph (3) added by section  
24 4002 of the Oceans Act of 1992 (106 Stat.  
25 5068)—

1 (i) by striking “issue” and inserting  
2 “promulgate”; and

3 (ii) by adding at the end the follow-  
4 ing: “Subject to the requirements of this  
5 subsection, the Secretary shall, on a peri-  
6 odic basis, promulgate such revised regula-  
7 tions as are necessary to ensure the pre-  
8 vention of the introduction and spread of  
9 aquatic nuisance species into the Hudson  
10 River.”;

11 (4) in subsection (c)—

12 (A) by striking “subsection (b)” and in-  
13 serting “this subsection”; and

14 (B) by striking “(c) CIVIL PENALTIES.—”  
15 and inserting the following:

16 “(4) CIVIL PENALTIES.—”;

17 (5) in subsection (d)—

18 (A) by striking “subsection (b)” and in-  
19 serting “this subsection”; and

20 (B) by striking “(d) CRIMINAL PEN-  
21 ALTIES.—” and inserting the following:

22 “(5) CRIMINAL PENALTIES.—”;

23 (6) in subsection (e), by striking “(e) CON-  
24 SULTATION WITH CANADA.—” and inserting the fol-  
25 lowing:

1 “(6) CONSULTATION WITH CANADA.—”;

2 (7) in subsection (b), by striking “(b) AUTHOR-  
3 ITY OF SECRETARY.—(1)” and inserting the follow-  
4 ing:

5 “(d) GREAT LAKES.—

6 “(1) IN GENERAL.—”;

7 (8) in subsection (d) (as redesignated by para-  
8 graph (7) of this subsection)—

9 (A) in paragraph (1)—

10 (i) by striking “issue” and inserting  
11 “promulgate”; and

12 (ii) by adding at the end the follow-  
13 ing: “Subject to the requirements of this  
14 subsection, the Secretary shall, on a peri-  
15 odic basis, promulgate such revised regula-  
16 tions as are necessary to ensure the pre-  
17 vention of the introduction and spread of  
18 aquatic nuisance species into the Great  
19 Lakes.”;

20 (B) in paragraph (2)—

21 (i) by striking “(2) The regulations is-  
22 sued under this subsection shall—” and in-  
23 serting the following:

1           “(2) REQUIREMENTS FOR REGULATIONS.—The  
2 regulations promulgated under this subsection  
3 shall—”;

4                   (ii) by indenting subparagraphs (A)  
5 through (I) appropriately; and

6                   (iii) in subparagraph (A), by striking  
7 “require” and inserting “cover”; and

8           (C) in paragraph (6) (as redesignated by  
9 paragraph (6) of this subsection), by striking  
10 “the guidelines and regulations” and inserting  
11 “the regulations promulgated under this sub-  
12 section”; and

13           (9) by inserting after subsection (a) the follow-  
14 ing new subsections:

15           “(b) EDUCATION AND TECHNICAL ASSISTANCE.—At  
16 the same time as the Secretary issues voluntary guidelines  
17 under subsection (a), the Secretary shall implement multi-  
18 lingual (as defined and determined by the Secretary) edu-  
19 cation and technical assistance programs and other meas-  
20 ures to encourage compliance with the guidelines issued  
21 under this subsection. To the extent practicable, in carry-  
22 ing out the programs implemented under this subsection,  
23 the Secretary shall arrange to use the expertise, facilities,  
24 members, or personnel of established agencies and organi-  
25 zations that have routine contact with vessels, including

1 the Animal and Plant Health Inspection Service of the De-  
2 partment of Agriculture, port administrations, and ship  
3 pilots associations.

4 “(c) REPORT TO CONGRESS.—Not later than 3 years  
5 after the issuance of guidelines under subsection (a), the  
6 Secretary shall submit to the Congress a report concern-  
7 ing—

8 “(1) the effectiveness of the voluntary guide-  
9 lines; and

10 “(2) the need for a mandatory program to pre-  
11 vent the spread of aquatic nuisance species through  
12 the exchange of ballast water.”.

13 (b) BALLAST WATER CONTROL STUDIES.—

14 (1) HEADING.—The heading of section 1102  
15 (16 U.S.C. 4712) is amended to read as follows:

16 **“SEC. 1102. BALLAST WATER CONTROL STUDIES.”.**

17 (2) ADDITIONAL STUDIES.—Section 1102(a)  
18 (16 U.S.C. 4712(a)) is amended by adding at the  
19 end the following new paragraphs:

20 “(4) BALLAST RELEASE PRACTICES.—

21 “(A) INITIAL STUDY.—Not later than the  
22 date of issuance of the guidelines required  
23 under section 1101(a), the Secretary shall con-  
24 duct a study to determine trends in ballast  
25 water releases in the Chesapeake Bay and other

1 waters of the United States that the Secretary  
2 determines to—

3 “(i) be highly susceptible to invasion  
4 from aquatic nuisance species; and

5 “(ii) require further study.

6 “(B) FOLLOWUP STUDY.—Not later than  
7 2 years after the date of issuance of the guide-  
8 lines required under section 1101(a), the Sec-  
9 retary shall conduct a followup study of the bal-  
10 last water releases described in subparagraph  
11 (A) to determine the extent of compliance with  
12 the guidelines and the effectiveness of the  
13 guidelines in reducing the introduction and  
14 spread of aquatic nuisance species.

15 “(5) AQUATIC NUISANCE INVASIONS.—

16 “(A) INITIAL STUDY.—Not later than the  
17 date of issuance of the guidelines required  
18 under section 1101(a), the Task Force shall  
19 conduct a study to examine the attributes and  
20 patterns of invasions of aquatic nuisance spe-  
21 cies that occur as a result of ballast water re-  
22 leases in the Chesapeake Bay and other waters  
23 of the United States that the Task Force deter-  
24 mines to—

1 “(i) be highly susceptible to invasion  
2 from aquatic nuisance species; and

3 “(ii) require further study.

4 “(B) FOLLOWUP STUDY.—Not later than  
5 2 years after the date of issuance of the guide-  
6 lines required under section 1101(a), the Task  
7 Force shall conduct a followup study of the at-  
8 tributes and patterns described in subparagraph  
9 (A) to determine the effectiveness of the guide-  
10 lines in reducing the introduction and spread of  
11 aquatic nuisance species.”.

12 (c) NAVAL BALLAST WATER PROGRAM.—Subtitle B  
13 (16 U.S.C. 4701 et seq.) is amended by adding at the end  
14 the following new section:

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

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

23 (d) AUTHORIZATION OF APPROPRIATIONS.—Section  
24 1301(a) (16 U.S.C. 4741(a)) is amended to read as  
25 follows:

1       “(a) PREVENTION OF UNINTENTIONAL INTRODUC-  
2 TIONS.—There are authorized to be appropriated to de-  
3 velop and implement the provisions of subtitle B—

4           “(1) \$500,000 to the department in which the  
5 Coast Guard is operating, for the period beginning  
6 with fiscal year 1996 and ending with fiscal year  
7 2000, to be used by the Secretary to carry out the  
8 study under section 1102(a)(4);

9           “(2) \$2,000,000 to the Task Force, for the pe-  
10 riod beginning with fiscal year 1996 and ending with  
11 fiscal year 2000, to be used by the Director and the  
12 Under Secretary (as co-chairpersons of the Task  
13 Force) to carry out the study under section  
14 1102(a)(5); and

15           “(3) \$1,250,000 to the department in which the  
16 Coast Guard is operating, for each of fiscal years  
17 1996 through 2000, to be used by the Secretary for  
18 the development and implementation of the guide-  
19 lines issued under section 1101(a) and the imple-  
20 mentation and enforcement of the regulations pro-  
21 mulgated under section 1101(d).”.

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