

108TH CONGRESS  
1ST SESSION

# H. R. 1080

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2003

Mr. GILCHREST (for himself, Mr. EHLERS, Mr. BAIRD, Mr. HOEKSTRA, Mr. ORTIZ, Mrs. BIGGERT, Mr. KIRK, Mr. KILDEE, Mr. CAMP, Mr. MCHUGH, Mr. EMANUEL, Ms. SLAUGHTER, Mr. ROGERS of Michigan, Mr. ENGLISH, Mr. FARR, Mr. CUMMINGS, Mr. LEVIN, Mr. STUPAK, Mr. SCOTT of Virginia, Mr. ABERCROMBIE, Mr. QUINN, Mr. SMITH of Washington, Mr. GEORGE MILLER of California, Mrs. MALONEY, Mr. DINGELL, Ms. KAPTUR, Ms. LEE, Mr. SAXTON, Mr. DICKS, Ms. BORDALLO, Mr. VISCLOSKY, Mr. WALSH, Mr. UPTON, Mr. GILLMOR, Mr. SMITH of Michigan, Mr. CASE, Mr. BOEHLERT, Mr. BROWN of Ohio, Mr. GREENWOOD, Mr. PALLONE, Mr. MARKEY, Mr. DELAHUNT, Mr. CARDIN, Mr. ALLEN, Mrs. MILLER of Michigan, Mr. BLUMENAUER, Mr. INSLEE, Mr. HOUGHTON, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MCCOTTER, Ms. BALDWIN, Mr. LEACH, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. KNOLLENBERG, Mr. TOWNS, Mr. HONDA, Mr. LIPINSKI, Mr. WEINER, Mr. KIND, Mr. EVANS, Ms. LOFGREN, Mr. KLECZKA, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. SIMMONS, and Mr. LATOURETTE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to reauthorize and improve that Act.

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

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

4        (a) SHORT TITLE.—This Act may be cited as the  
 5 “National Aquatic Invasive Species Act of 2003”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—PREVENTION OF INTRODUCTION OF AQUATIC INVASIVE  
 SPECIES INTO WATERS OF THE UNITED STATES BY VESSELS

- Sec. 101. Vessel pathway requirements.
- Sec. 102. Requirements for new vessels.
- Sec. 103. Great Lakes program.
- Sec. 104. Authority of Secretary; regulations.
- Sec. 105. Sanctions.
- Sec. 106. Program coordination.
- Sec. 107. Vessel safety.
- Sec. 108. Relationship to other law.
- Sec. 109. Armed services whole vessel management program.
- Sec. 110. Conforming amendments.

TITLE II—PREVENTION OF THE INTRODUCTION OF AQUATIC  
 INVASIVE SPECIES BY OTHER PATHWAYS

- Sec. 201. Priority pathway management program.
- Sec. 202. Screening process for planned importations of live aquatic organisms.

TITLE III—EARLY DETECTION; RAPID RESPONSE; CONTROL AND  
 OUTREACH

- Sec. 301. Early detection.
- Sec. 302. Rapid response.
- Sec. 303. Dispersal barriers.
- Sec. 304. Environmental soundness.
- Sec. 305. Specific invasive species control programs.
- Sec. 306. Information, education, and outreach.

TITLE IV—COORDINATION

- Sec. 401. Program coordination.
- Sec. 402. International coordination.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

- Sec. 501. Authorization of appropriations.

## TITLE VI—CONFORMING AMENDMENTS

Sec. 601. Conforming amendments.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) invasive species can cause devastating de-  
4 clines in local, regional, and national species diver-  
5 sity;

6 (2) aquatic invasive species continue to be in-  
7 troduced into water of the United States;

8 (3) aquatic invasive species damage infrastruc-  
9 ture, disrupt commerce, outcompete native species,  
10 reduce biodiversity, and threaten human health;

11 (4) the direct and indirect costs of aquatic  
12 invasive species to the economy of the United States  
13 amount to billions of dollars per year;

14 (5) in the Great Lakes region, approximately  
15 \$3,000,000,000 has been spent in the past 10 years  
16 to mitigate the damage caused by a single invasive  
17 species, the zebra mussel;

18 (6) recent studies have—

19 (A) demonstrated that, in addition to eco-  
20 nomic damage, invasive species can cause enor-  
21 mous ecological damage; and

22 (B) cited invasive species as the second  
23 leading threat to endangered species;

1           (7) over the past 200 years, the rate of detected  
2 marine and freshwater invasions in North America  
3 has increased exponentially;

4           (8) wetlands suffer compound impacts from—

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

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

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

11           (9) the rate of invasions continues to be unac-  
12 ceptable;

13           (10) infestations by aquatic invasive species  
14 often spread and cause significant, negative regional,  
15 national, and international effects;

16           (11) prevention of aquatic invasive species is  
17 the most environmentally sound and cost-effective  
18 management approach because once established,  
19 aquatic invasive species are costly, and sometimes  
20 impossible to control;

21           (12) to be effective, the prevention, early detec-  
22 tion, and control of and rapid response to aquatic  
23 invasive species should be coordinated regionally, na-  
24 tionally, and internationally;

1           (13) research underlies every aspect of detect-  
2           ing, preventing, controlling, and eradicating invasive  
3           species, educating citizens and stakeholders, and re-  
4           storing ecosystems;

5           (14) pathway management is the most prom-  
6           ising approach to reducing unplanned introductions  
7           of aquatic invasive species;

8           (15) consistent national screening criteria are  
9           needed to evaluate the potential risk of nonnative  
10          aquatic species;

11          (16) States and regions have specific problems  
12          with respect to aquatic invasive species and re-  
13          sources for addressing aquatic invasive species;

14          (17) an emphasis on research, development, and  
15          demonstration to support prevention efforts would  
16          likely result in a more cost-effective and successful  
17          approach to combating invasive species through pre-  
18          venting initial introduction;

19          (18) research, development, and demonstration  
20          to support prevention includes monitoring of path-  
21          ways and ecosystems to track the introduction and  
22          establishment of invasive species, analysis of that  
23          data, and development and testing of technologies to  
24          prevent introduction through known pathways;

1           (19) the Aquatic Nuisance Species Task Force  
2           established by section 1201(a) of the Nonindigenous  
3           Aquatic Nuisance Prevention and Control Act of  
4           1990 (16 U.S.C. 4721(a)) has been directed by the  
5           Congress to coordinate interagency responses to  
6           aquatic invasive species, but the provision of addi-  
7           tional direction, and assignment of specific respon-  
8           sibilities, to various Federal agencies would accel-  
9           erate those responses; and

10           (20) it is in the interest of the United States  
11           to conduct a comprehensive and thorough research,  
12           development, and demonstration program on aquatic  
13           invasive species in order to better understand how  
14           aquatic invasive species are introduced and become  
15           established and to support efforts to prevent the in-  
16           troduction and establishment of those species.

17 **SEC. 3. DEFINITIONS.**

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

21 **“SEC. 1003. DEFINITIONS.**

22           “In this Act:

23           “(1) ADMINISTRATOR.—The term ‘Adminis-  
24           trator’ means the Administrator of the Environ-  
25           mental Protection Agency.

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

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

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

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

15           “(6) DIRECTOR.—The term ‘Director’ means  
16 the Director of the United States Fish and Wildlife  
17 Service.

18           “(7) ENVIRONMENTALLY SOUND.—The term  
19 ‘environmentally sound’, when used in reference to  
20 any activity or thing, refers to an activity or thing  
21 that prevents, entirely or in part, introductions, or  
22 controls infestations, of aquatic invasive species in a  
23 manner that—

24                   “(A) minimizes adverse effects on—

1                   “(i) the structure and function of an  
2                   ecosystem; and

3                   “(ii) nontarget organisms and eco-  
4                   systems; and

5                   “(B) emphasizes the use of integrated pest  
6                   management techniques.

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

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

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

15                   “(9) GREAT LAKE.—The term “Great Lake”  
16                   means—

17                   “(A) Lake Erie;

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

20                   “(C) Lake Michigan;

21                   “(D) Lake Ontario;

22                   “(E) Lake Superior;

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

25                   “(i) the Saint Mary’s River;

1 “(ii) the Saint Clair River;

2 “(iii) the Detroit River;

3 “(iv) the Niagara River; and

4 “(v) the Saint Lawrence River to the  
5 Canadian border; and

6 “(G) any other body of water located with-  
7 in the drainage basin of a Lake, River, or con-  
8 necting channel described in any of subpara-  
9 graphs (A) through (F).

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

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

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

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

1 States and Canada, signed at Washington on Janu-  
2 ary 11, 1909 (36 Stat. 2448; TS 548).

3 “(14) INTERSTATE ORGANIZATION.—The term  
4 ‘interstate organization’ means an entity that—

5 “(A) is established by—

6 “(i) an interstate compact approved  
7 by the Congress;

8 “(ii) an Act of Congress; or

9 “(iii) an international agreement to  
10 which the United States is a party;

11 “(B)(i) represents 2 or more—

12 “(I) States (or political subdivisions of  
13 States); or

14 “(II) Indian tribes;

15 “(ii) represents—

16 “(I) 1 or more States (or political  
17 subdivisions of States); and

18 “(II) 1 or more Indian tribes; or

19 “(iii) represents the Federal Government  
20 and 1 or more foreign governments; and

21 “(C) has jurisdiction over, serves as a  
22 forum for coordinating, or otherwise has a role  
23 or responsibility for the management of, any  
24 land or other natural resource.

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

5           “(16) INVASION.—The term ‘invasion’ means  
6 an infestation of an aquatic invasive species.

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

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

16           “(19) NEW SOURCE.—The term ‘new source’  
17 means any source of nonnative species that may be  
18 introduced by construction that is commenced after  
19 the publication of a proposed regulation prescribing  
20 a standard of performance under this Act that is ap-  
21 plicable to the source, if the standard is subse-  
22 quently promulgated in accordance with this Act.

23           “(20) NONINDIGENOUS SPECIES.—The term  
24 ‘nonindigenous species’ means any species in an eco-

1 system that enters that ecosystem from outside the  
2 historic range of the species.

3 “(21) ORGANISM IN TRADE.—The term ‘orga-  
4 nism in trade’ means an organism of a species or  
5 subspecies that has a documented history of being  
6 commercially imported into the United States in the  
7 period beginning on January 1, 1990, and ending on  
8 January 1, 2002.

9 “(22) ORGANISM TRANSFER.—The term ‘orga-  
10 nism transfer’ means the movement of an organism  
11 of any species from one ecosystem to another eco-  
12 system.

13 “(23) PATHWAY.—The term ‘pathway’ means 1  
14 or more routes by which an invasive species is trans-  
15 ferred from one ecosystem to another.

16 “(24) PILOT SCALE TEST.—The term ‘pilot  
17 scale test’ means a test—

18 “(A) that is conducted at less than full-  
19 scale; and

20 “(B) the results of which can potentially  
21 be extrapolated to the full scale.

22 “(25) PLANNED IMPORTATION.—The term  
23 ‘planned importation’ means the purposeful move-  
24 ment of a species into the territorial limits of the  
25 United States.

1           “(26) REGIONAL PANEL.—The term ‘regional  
2 panel’ means a panel convened in accordance with  
3 section 1203.

4           “(27) SECRETARY.—The term ‘Secretary’  
5 means the Secretary of the department in which the  
6 Coast Guard is operating.

7           “(28) SPECIES.—The term ‘species’ means any  
8 fundamental category of taxonomic classification, or  
9 any viable biological material, ranking below a genus  
10 or subgenus.

11           “(29) TASK FORCE.—The term ‘Task Force’  
12 means the Aquatic Invasive Species Task Force es-  
13 tablished by section 1201(a).

14           “(30) TERRITORIAL SEA.—The term ‘territorial  
15 sea’ means the belt of the sea measured from the  
16 baseline of the United States determined in accord-  
17 ance with international law, as set forth in Presi-  
18 dential Proclamation Number 5928, dated December  
19 27, 1988.

20           “(31) TREATMENT.—The term ‘treatment’  
21 means a mechanical, physical, chemical, biological,  
22 or other process or method of killing, removing, or  
23 rendering infertile, invasive species.

24           “(32) TYPE APPROVAL.—The term ‘type ap-  
25 proval’ means an approval procedure under which a

1 type of system is certified as meeting a standard es-  
 2 tablished by law (including a regulation) for a par-  
 3 ticular application.

4 “(33) UNDER SECRETARY.—The term ‘Under  
 5 Secretary’ means the Under Secretary of Commerce  
 6 for Oceans and Atmosphere.

7 “(34) UNDESIRABLE IMPACT.—The term ‘unde-  
 8 sirable impact’ means economic, human health, aes-  
 9 thetic, or environmental degradation that is not nec-  
 10 essary for, and is not clearly outweighed by, public  
 11 health, environmental, or welfare benefits.

12 “(35) WATERS OF THE UNITED STATES.—

13 “(A) IN GENERAL.—The term ‘waters of  
 14 the United States’ means the navigable waters  
 15 and territorial sea of the United States.

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

18 **TITLE I—PREVENTION OF IN-**  
 19 **TRODUCTION OF AQUATIC**  
 20 **INVASIVE SPECIES INTO WA-**  
 21 **TERS OF THE UNITED STATES**  
 22 **BY VESSELS**

23 **SEC. 101. VESSEL PATHWAY REQUIREMENTS.**

24 (a) REQUIREMENTS FOR VESSELS OPERATING IN  
 25 WATERS OF THE UNITED STATES.—Section 1101 of the

1 Nonindigenous Aquatic Nuisance Prevention and Control  
2 Act of 1990 (16 U.S.C. 4711) is amended by striking sub-  
3 section (a) and inserting the following:

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

6 “(1) INVASIVE SPECIES MANAGEMENT PLAN.—

7 “(A) IN GENERAL.—Effective beginning on  
8 the date that is 180 days after the issuance of  
9 guidelines pursuant to subparagraph (D) and  
10 the promulgation of guidelines or regulations  
11 under this section, each vessel that is equipped  
12 with ballast, and other towed vessels and struc-  
13 tures, operating in waters of the United States  
14 shall have in effect, and have available for in-  
15 spection, an aquatic invasive species manage-  
16 ment plan that prescribes safe and effective  
17 means by which the master of the vessel shall  
18 minimize introductions and transfers of invasive  
19 species by any part of the vessel, pursuant to  
20 the guidelines or regulations applicable to that  
21 vessel.

22 “(B) SPECIFICITY.—The management plan  
23 shall be specific to the vessel (or group of ves-  
24 sels with characteristics similar to that of the  
25 vessel, as determined by the Secretary).

1           “(C) REQUIREMENTS.—The management  
2 plan shall include, at a minimum, such informa-  
3 tion as is requested by the Secretary pursuant  
4 to subparagraph (D), including—

5           “(i) operational requirements to safely  
6 and effectively comply with the ballast  
7 water management requirements under  
8 paragraph (4);

9           “(ii) operational requirements to safe-  
10 ly and effectively carry out any actions  
11 consistent with rapid response action re-  
12 quired by States and approved by the Sec-  
13 retary under section 1211;

14           “(iii) other requirements specified in  
15 guidelines adopted by the International  
16 Maritime Organization;

17           “(iv) a description of all reporting re-  
18 quirements and a copy of each form nec-  
19 essary to meet those requirements;

20           “(v) the position of the officer respon-  
21 sible for implementation of ballast water  
22 management and reporting procedures on  
23 board;

1 “(vi) documents relevant to any bal-  
2 last water management equipment or pro-  
3 cedures;

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

7 “(viii) a description of requirements  
8 relating to compliance with any approved  
9 rapid response strategy relevant to the voy-  
10 age of the vessel;

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

13 “(x) such requirements described in  
14 subsection (e) as are applicable to the ves-  
15 sel.

16 “(D) GUIDELINES.—Not later than 18  
17 months after the date of enactment of the Na-  
18 tional Aquatic Invasive Species Act of 2003, the  
19 Secretary shall issue final guidelines for the de-  
20 velopment of invasive species management  
21 plans, including guidelines that—

22 “(i) identify types of vessels for which  
23 plans are required;

24 “(ii) establish processes for updating  
25 and revising the plans; and

1                   “(iii) establish criteria for compliance  
2                   with this subsection.

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

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

7                   “(B) permit inspection of the records by  
8                   representatives of the Secretary and of the  
9                   State in which the vessel has entered a port;  
10                  and

11                  “(C) transmit records to the National Bal-  
12                  last Information Clearinghouse established  
13                  under section 1102(f).

14                  “(3) BEST MANAGEMENT PRACTICES.—

15                  “(A) IN GENERAL.—Not later than 18  
16                  months after the date of enactment of the Na-  
17                  tional Aquatic Invasive Species Act of 2003, the  
18                  Secretary shall issue guidelines on best manage-  
19                  ment practices to eliminate or minimize and  
20                  monitor organism transfer by vessels.

21                  “(B) PRACTICES TO BE INCLUDED.—The  
22                  best management practices shall include, but  
23                  not be limited to—

24                         “(i) sediment management in trans-  
25                         oceanic vessels;

1           “(ii) minimization of ballast water up-  
2           take in areas where there is a greater risk  
3           of harmful organisms entering ballast  
4           tanks (such as areas with toxic algal  
5           blooms or known outbreaks of aquatic  
6           invasive species);

7           “(iii) avoidance of unnecessary dis-  
8           charge of ballast water in a port that was  
9           taken up in another port;

10           “(iv) to the maximum extent prac-  
11           ticable, collection and the proper disposal  
12           of debris from the cleaning of the hull;

13           “(v) proper use of antifouling coating;  
14           and

15           “(vi) provision of access points in bal-  
16           last piping for sampling of ballast intake  
17           and discharge.

18           “(4) BALLAST WATER MANAGEMENT.—

19           “(A) IN GENERAL.—Each vessel equipped  
20           with a ballast water tank that enters a United  
21           States port, except for a vessel subject to sub-  
22           paragraph (B) and subsection (c), shall comply  
23           with the standards described in paragraphs (1)  
24           and (2) of subsection (b) and the regulations

1 promulgated under subsection (e) relating to  
2 ballast water management.

3 “(B) EXCEPTIONS.—

4 “(i) VESSELS OPERATING ENTIRELY  
5 WITHIN THE EXCLUSIVE ECONOMIC  
6 ZONE.—A vessel equipped with a ballast  
7 water tank that operates entirely within  
8 the exclusive economic zone shall not be re-  
9 quired to comply with the standard de-  
10 scribed in subsection (b)(1).

11 “(ii) VESSELS THAT OPERATE EXCLU-  
12 SIVELY IN AN ENCLOSED AQUATIC ECO-  
13 SYSTEM.—

14 “(I) IN GENERAL.—A vessel  
15 equipped with ballast tanks and that  
16 operates exclusively in the upper 4  
17 Great Lakes, or in another enclosed  
18 aquatic ecosystem in which the poten-  
19 tial for movement of organisms by  
20 natural and anthropogenic means is  
21 not significantly altered by the move-  
22 ment of the vessel, is not required to  
23 comply with the standards described  
24 in paragraphs (1) and (2) of sub-  
25 section (b).

1                   “(II) ADDITIONAL ENCLOSED  
2                   AQUATIC ECOSYSTEMS.—The Admin-  
3                   istrator and Under Secretary, in con-  
4                   sultation with regional panels of the  
5                   Task Force, may determine the other  
6                   enclosed aquatic ecosystems that are  
7                   covered by subclause (I).”.

8           (b) BALLAST WATER MANAGEMENT STANDARDS  
9   AND CERTIFICATION PROCEDURES.—Section 1101 of the  
10 Nonindigenous Aquatic Nuisance Species Prevention and  
11 Control Act of 1990 (16 U.S.C. 4711) is further amend-  
12 ed—

13           (1) by striking subsections (b) through (f) and  
14           subsection (h); and

15           (2) by inserting after subsection (a) the fol-  
16           lowing:

17           “(b) BALLAST WATER MANAGEMENT STANDARDS  
18   AND CERTIFICATION PROCEDURES.—

19           “(1) INTERIM STANDARDS.—

20           “(A) IN GENERAL.—Not later than 18  
21           months after the date of enactment of the Na-  
22           tional Aquatic Invasive Species Act of 2003, the  
23           Secretary, with the concurrence of the Adminis-  
24           trator and in consultation with the Task Force,

1 shall promulgate final regulations establishing  
2 interim standards indicating acceptable—

3 “(i) operational performance for bal-  
4 last water exchange (including contingency  
5 procedures in instances in which a safety  
6 exemption is used pursuant to subsection  
7 (k)); and

8 “(ii) biological effectiveness of ballast  
9 water treatment systems (including on-  
10 shore facilities and facilities on board ves-  
11 sels).

12 “(B) REQUIREMENTS.—

13 “(i) BALLAST WATER EXCHANGE.—  
14 The interim standard for ballast water ex-  
15 change described in subparagraph (A) shall  
16 require—

17 “(I) at least 1 empty-and-refill  
18 cycle on the high sea or in an alter-  
19 native exchange area designated by  
20 the Secretary, of each ballast tank  
21 that contains ballast water to be dis-  
22 charged into waters of the United  
23 States;

24 “(II) in a case in which the mas-  
25 ter of a vessel determines that compli-

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

16                         “(III) an approved contingency  
17                         procedure using best practicable tech-  
18                         nology or practices in instances in  
19                         which a ballast water exchange is not  
20                         undertaken pursuant to subsection  
21                         (k).

22                         “(ii) BALLAST SYSTEM DESIGN AND  
23                         WATER TREATMENT SYSTEMS.—The in-  
24                         terim standard for a ballast water system  
25                         design and treatment system described in

1 subparagraph (A) shall require that at  
2 least 95 percent of the live aquatic  
3 vertebrates, invertebrates, phytoplankton,  
4 and macroalgae, respectively, in ballast  
5 water taken in by a vessel or class of ves-  
6 sels be killed or removed from ballast dis-  
7 charge as determined by the qualified type  
8 approval process promulgated under para-  
9 graph (3)(B)(ii).

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

13 “(I) meet occupational safety and  
14 environmental soundness criteria de-  
15 scribed in paragraph (7); and

16 “(II) cease to apply on the effec-  
17 tive date of final standards developed  
18 pursuant to paragraph (2).

19 “(2) FINAL STANDARDS.—

20 “(A) IN GENERAL.—Not later than 4 years  
21 after the date of enactment of the National  
22 Aquatic Invasive Species Act of 2003, the Ad-  
23 ministrator, in consultation with the Task  
24 Force and with the concurrence of the Sec-  
25 retary, shall promulgate final standards for bal-

1 last water discharge and other vessel operations  
2 determined to pose a significant risk to the en-  
3 vironment through the introduction of non-  
4 indigenous species.

5 “(B) REQUIREMENTS.—The final stand-  
6 ards shall—

7 “(i) result from application of the best  
8 available technology for—

9 “(I) the applicable category or  
10 class of vessels; and

11 “(II) the new source or existing  
12 source status;

13 “(ii) have the goal of eliminating the  
14 risk of introduction into waters of the  
15 United States by vessels of nonindigenous  
16 species, including plant, animal, and  
17 human pathogens;

18 “(iii) consider findings of scientific  
19 and policy research; and

20 “(iv) be measurable.

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

23 “(A) IN GENERAL.—Not later than the  
24 date on which interim standards are promul-  
25 gated under paragraph (1) and final standards

1 are promulgated under paragraph (2), the Sec-  
2 retary shall, with the concurrence of the Admin-  
3 istrator, promulgate regulations for—

4 “(i) the certification of treatments or  
5 practices that comply with the standards;  
6 and

7 “(ii) ongoing enforcement of the use  
8 of the treatments or practices.

9 “(B) CERTIFICATION UNDER INTERIM  
10 STANDARDS.—The certification of treatments  
11 and practices in compliance with the interim  
12 standard promulgated pursuant to paragraph  
13 (1) shall be based on a qualified type approval  
14 process, including—

15 “(i) protocol for ballast water ex-  
16 change involving dye studies or models de-  
17 tailing flow dynamics of vessels described  
18 in paragraph (1)(B)(i)(II); and

19 “(ii) protocol for qualified type ap-  
20 proval of ballast water treatment systems  
21 for the interim standard described in para-  
22 graph (1) that—

23 “(I) is capable of determining the  
24 extent to which a ballast water treat-  
25 ment system complies with applicable

1 standards, including limitations on  
2 that compliance caused by—

3 “(aa) biological, chemical, or  
4 physical conditions of water  
5 taken into ballast; and

6 “(bb) conditions encountered  
7 during a voyage;

8 “(II) is capable of determining  
9 the extent to which a ballast water  
10 treatment system—

11 “(aa) is environmentally  
12 sound, based on criteria promul-  
13 gated by the Administrator under  
14 paragraph (7)(A); and

15 “(bb) is safe for vessel and  
16 crew;

17 “(III) may be used in estimating  
18 the expected useful life of the ballast  
19 water treatment system, as deter-  
20 mined on the basis of voyage patterns  
21 and normal use conditions;

22 “(IV) includes a shipboard test-  
23 ing component, and may include a  
24 shore-based testing component;

1 “(V) provides for appropriate  
2 monitoring; and

3 “(VI) is cost effective.

4 “(C) CERTIFICATION UNDER FINAL  
5 STANDARDS.—The certification of treatments  
6 in compliance with the final standards issued  
7 pursuant to paragraph (2) shall—

8 “(i) apply to all methods of ballast  
9 water management and system design, in-  
10 cluding—

11 “(I) ballast water exchange;

12 “(II) ballast water treatment sys-  
13 tems; and

14 “(III) other vessel operations de-  
15 termined to pose a significant risk to  
16 the environment through the introduc-  
17 tion of nonindigenous organisms;

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

21 “(iii) meet occupational safety and en-  
22 vironmental soundness criteria described in  
23 paragraph (7); and

24 “(iv) apply beginning not later than  
25 October 1, 2011.

1           “(4) EXPERIMENTAL APPROVAL FOR BALLAST  
2 WATER TREATMENT.—

3           “(A) IN GENERAL.—Subject to subpara-  
4 graph (B), if, before the date on which the Sec-  
5 retary promulgates interim ballast water man-  
6 agement standards under paragraph (1), an  
7 owner or operator of a vessel seeks to conduct  
8 a treatment of ballast water—

9           “(i) the owner or operator shall apply  
10 to the Secretary for experimental approval  
11 of the treatment; and

12           “(ii) the Secretary shall approve the  
13 treatment if—

14           “(I) the owner or operator pro-  
15 vides to the Secretary independently  
16 peer-reviewed, pilot-scale information  
17 relating to the effectiveness and envi-  
18 ronmental soundness of the treatment;

19           “(II) the Secretary and the Ad-  
20 ministrator, in consultation with the  
21 Task Force (including relevant re-  
22 gional panels, and the Prevention  
23 Committee, of the Task Force), deter-  
24 mine that the technology to be used  
25 for the treatment has significant po-

1                   tential to kill or remove at least 95  
2                   percent of the aquatic vertebrates, in-  
3                   vertebrates, phytoplankton, and macro  
4                   algae, respectively, in ballast water  
5                   taken in by the class of vessel for  
6                   which the treatment is sought to be  
7                   conducted; and

8                   “(III) the Administrator deter-  
9                   mines that the treatment meets envi-  
10                  ronmental regulations.

11                  “(B) LIMITATIONS.—

12                  “(i) PERIOD OF TESTING.—Testing of  
13                  the treatment system approved under this  
14                  section may cease prior to the termination  
15                  of the approval period described in clause  
16                  (ii).

17                  “(ii) PERIOD OF APPROVAL.—Ap-  
18                  proval under subparagraph (A) shall be  
19                  granted for—

20                  “(I) a period of 10 years or the  
21                  expected useful life of the treatment  
22                  system, whichever is earlier; or

23                  “(II) until such time as the Sec-  
24                  retary or Administrator (as appro-  
25                  priate) determine that (based on

1 available information, including infor-  
2 mation developed pursuant to clause  
3 (iii)) there exists a serious deficiency  
4 in performance or environmental  
5 soundness of the system relative to  
6 anticipated performance or environ-  
7 mental soundness.

8 “(iii) INFORMATION.—As a condition  
9 of receiving experimental approval for a  
10 treatment under subparagraph (A)(ii), the  
11 owner or operator of a vessel shall agree to  
12 collect and report such information regard-  
13 ing the operational and biological effective-  
14 ness of the treatment through sampling of  
15 the intake and discharge ballast as the  
16 Secretary may request.

17 “(iv) RENEWAL.—An experimental  
18 approval may be renewed pursuant to  
19 paragraph (7)(B).

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

22 “(A) IN GENERAL.—The Secretary, the  
23 Secretary of Transportation, and the Adminis-  
24 trator shall assist owners or operators of vessels  
25 that seek to obtain experimental or interim ap-

1           proval for installation of ballast water treat-  
2           ment systems, including through providing  
3           guidance on—

4                   “(i) a sampling protocol and test pro-  
5                   gram for cost-effective treatment evalua-  
6                   tion;

7                   “(ii) sources of sampling equipment  
8                   and field biological expertise; and

9                   “(iii) examples of shipboard evalua-  
10                  tion studies.

11               “(B) SELECTION OF TECHNOLOGIES AND  
12               PRACTICES.—In selecting technologies and  
13               practices for shipboard demonstration under  
14               section 1104(b), the Secretary of the Interior  
15               and the Secretary of Commerce shall give pri-  
16               ority consideration to technologies and practices  
17               that have received or are in the process of re-  
18               ceiving approval under paragraphs (1) and (4)  
19               of this subsection.

20               “(C) ANNUAL SUMMARIES.—The Secretary  
21               shall annually summarize, and make available  
22               to interested parties, all available information  
23               on the performance of technologies proposed for  
24               ballast treatment to facilitate the application

1 process for experimental approval for ballast  
2 water treatment under paragraph (4).

3 “(6) APPLICATION FOR APPROVAL.—

4 “(A) IN GENERAL.—The Secretary and the  
5 Administrator may approve only such applica-  
6 tions for qualified type approval of the ballast  
7 water treatment system that are in such form  
8 and contain such information as the Secretary  
9 and Administrator may require.

10 “(B) APPROVAL AND DISAPPROVAL.—

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

13 “(I) the Administrator shall, not  
14 later than 90 days after the date of  
15 receipt of the application—

16 “(aa) review the application  
17 for compliance and consistency  
18 with environmental soundness  
19 criteria promulgated under para-  
20 graph (7)(A); and

21 “(bb) approve those ballast  
22 water treatment systems that  
23 meet those criteria; and

24 “(II) the Secretary, in consulta-  
25 tion with the Task Force, shall, not

1 later than 180 days after the date of  
2 receipt of the application—

3 “(aa) determine whether the  
4 ballast water treatment system  
5 covered by the application meets  
6 the requirements of this sub-  
7 section, as appropriate;

8 “(bb) approve or disapprove  
9 the application; and

10 “(cc) provide the applicant  
11 written notice of approval or dis-  
12 approval.

13 “(ii) LIMITATIONS.—An application  
14 approved under clause (i) shall—

15 “(I) be qualified with any limita-  
16 tions relating to voyage pattern, dura-  
17 tion, or any other characteristic that  
18 may affect the effectiveness or envi-  
19 ronmental soundness of the ballast  
20 water treatment system covered by  
21 the application, as determined by the  
22 Secretary in consultation with the Ad-  
23 ministrator;

1           “(II) be applicable to a specific  
2 ship or group of ships, as determined  
3 by the Secretary;

4           “(III) be valid for the lesser of—

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

9           “(bb) until such time as the  
10 Secretary or Administrator (as  
11 appropriate) determines that  
12 (based on available information,  
13 including information developed  
14 pursuant to paragraph  
15 (4)(B)(iii)) there exists a serious  
16 deficiency in performance or envi-  
17 ronmental soundness of the sys-  
18 tem relative to anticipated per-  
19 formance or environmental  
20 soundness; and

21           “(IV) be renewed if—

22           “(aa) the Secretary deter-  
23 mines that the ballast water  
24 treatment system remains in  
25 compliance with applicable stand-

1 ards as of the date of application  
2 for renewal; or

3 “(bb) the remaining useful  
4 life of the vessel is less than 10  
5 years.

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

8 “(A) IN GENERAL.—The Administrator  
9 shall include in criteria promulgated under sec-  
10 tion 1202(k)(1)(A) specific criteria—

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

13 “(ii) to grant environmental sound-  
14 ness exceptions under subparagraph (B).

15 “(B) EXCEPTIONS.—

16 “(i) IN GENERAL.—In reviewing appli-  
17 cations under paragraph (6)(B)(i)(I) in an  
18 emergency situation to achieve reductions  
19 in significant and acute risk of transfers of  
20 invasive species by vessels, the Secretary  
21 and the Administrator may jointly deter-  
22 mine to make an exception to criteria de-  
23 scribed in subparagraph (A)(i).

24 “(ii) QUALIFICATION OF APPROV-  
25 ALS.—To be eligible for an exception under

1 clause (i), an approval under paragraph  
2 (6)(B)(i)(I) shall be qualified under para-  
3 graph (6)(B)(ii).

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

7 **SEC. 102. REQUIREMENTS FOR NEW VESSELS.**

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

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

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

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

22 **SEC. 103. GREAT LAKES PROGRAM.**

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

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

3 “(d) GREAT LAKES PROGRAM.—

4 “(1) CONTINUITY OF REGULATIONS AND GREAT  
5 LAKES PROGRAM.—

6 “(A) REGULATIONS.—Regulations promul-  
7 gated under subsection (b) of this section, as in  
8 effect immediately before the enactment of the  
9 National Aquatic Invasive Species Act of 2003,  
10 shall remain in effect until such time as the  
11 regulations are revised or replaced by regula-  
12 tions promulgated pursuant to the National  
13 Aquatic Invasive Species Act of 2003.

14 “(B) RELATIONSHIP TO OTHER PRO-  
15 GRAMS.—Upon implementation of a national  
16 mandatory ballast management program that is  
17 at least as comprehensive as the Great Lakes  
18 program established under subsection (b) of  
19 this section, as in effect immediately before the  
20 enactment of the National Aquatic Invasive  
21 Species Act of 2003, including regulations  
22 under that section (as determined by the Sec-  
23 retary, in consultation with the Governors of  
24 Great Lakes States)—

1 “(i) the program regulating vessels  
2 and ballast water in the Great Lakes  
3 under this section shall terminate; and

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

6 “(2) REVIEW AND REVISION.—

7 “(A) IN GENERAL.—Not later than 18  
8 months after the date of enactment of the Na-  
9 tional Aquatic Invasive Species Act of 2003, the  
10 Secretary shall—

11 “(i) review and revise regulations pro-  
12 mulgated under this subsection; and

13 “(ii) promulgate the revised regula-  
14 tions.

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

18 **SEC. 104. AUTHORITY OF SECRETARY; REGULATIONS.**

19 Section 1101 of the Nonindigenous Aquatic Nuisance  
20 Prevention and Control Act of 1990 (16 U.S.C. 4711) is  
21 further amended by inserting after subsection (d) the fol-  
22 lowing:

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

24 “(1) IN GENERAL.—Not later than 18 months  
25 after the date of enactment of the National Aquatic

1 Invasive Species Act of 2003, the Secretary shall  
2 promulgate regulations to implement this section.

3 “(2) PROGRAM COMPONENTS.—

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

7 “(i) ships that enter the Great Lakes  
8 after operating outside the exclusive eco-  
9 nomic zone; and

10 “(ii) ships that enter United States  
11 ports after operating outside the exclusive  
12 economic zone, excluding United States  
13 ports on the Great Lakes.

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

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

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

23 “(B) apply to all vessels to which the re-  
24 spective standards apply;

25 “(C) protect the safety of—

1 “(i) each vessel; and

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

4 “(D) require a vessel described in para-  
5 graph (1)—

6 “(i) to carry out the exchange of bal-  
7 last water of the vessel in waters beyond  
8 the exclusive economic zone in accordance  
9 with the standards and certification proce-  
10 dures promulgated under subsection (b);

11 “(ii) in a case in which the master of  
12 the vessel determines that compliance with  
13 clause (i) is impracticable, to exchange the  
14 ballast water of the vessel in other waters  
15 in which the exchange does not pose a  
16 threat of invasion or spread of nonindige-  
17 nous species in waters of the United  
18 States, as designated by the Secretary; or

19 “(iii) to use environmentally sound al-  
20 ternative ballast water management meth-  
21 ods, including modification of the vessel  
22 ballast water tanks and intake systems, if  
23 the Secretary determines that such alter-  
24 native methods are in accordance with

1 standards and certification procedures pro-  
2 mulgated under subsection (b);

3 “(E) provide for sampling of ballast intake  
4 and discharge flows through ballast piping to  
5 monitor compliance with the regulations;

6 “(F) take into consideration—

7 “(i) vessel types;

8 “(ii) variations in the ecological condi-  
9 tions of waters and coastal areas of the  
10 United States; and

11 “(iii) different operating conditions;

12 and

13 “(G) be based on the best scientific infor-  
14 mation available.

15 “(4) CONSISTENCY WITH INTERNATIONAL  
16 AGREEMENTS.—The Secretary shall, with the con-  
17 currence of the Administrator, revise regulations  
18 promulgated under this subsection as necessary to  
19 ensure that the regulations relating to any matter  
20 are consistent with the treatment of the matter in  
21 any international agreements to which the United  
22 States is a party that governs management of the  
23 transfer by vessel of aquatic nonindigenous species.

24 “(5) EDUCATION AND TECHNICAL ASSIST-  
25 ANCE.—The Secretary may carry out education and

1 technical assistance programs and other measures to  
2 promote compliance with the regulations promul-  
3 gated under this subsection.

4 “(f) PERIODIC REVIEW AND REVISION OF REGULA-  
5 TIONS.—

6 “(1) IN GENERAL.—Not later than 3 years  
7 after the date of enactment of the National Aquatic  
8 Invasive Species Act of 2003, and not less often  
9 than every 3 years thereafter, the Secretary shall  
10 (with the concurrence of the Administrator, based on  
11 recommendations of the Task Force and information  
12 collected and analyzed by relevant research, and in  
13 accordance with criteria developed by the Task  
14 Force under paragraph (3))—

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

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

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

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

1                   “(ii) promulgate additional regula-  
2                   tions.

3                   “(2) SPECIAL REVIEW AND REVISION.—Not  
4                   later than 90 days after the date on which the Task  
5                   Force makes a request to the Secretary for a special  
6                   review and revision of the program, the Secretary  
7                   shall (with the concurrence of the Administrator)—

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

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

12                  “(i) revise those guidelines; or

13                  “(ii) promulgate additional regula-  
14                  tions.

15                  “(3) CRITERIA FOR EFFECTIVENESS.—Not  
16                  later than 1 year after the date of enactment of the  
17                  National Aquatic Invasive Species Act of 2003, and  
18                  every 3 years thereafter, the Task Force shall sub-  
19                  mit to the Secretary criteria for determining the  
20                  adequacy and effectiveness of all regulations promul-  
21                  gated under this section.”.

22 **SEC. 105. SANCTIONS.**

23                  Section 1101(g) of the Nonindigenous Aquatic Nui-  
24                  sance Prevention and Control Act of 1990 (16 U.S.C.  
25                  1101(g)) is amended to read as follows:

1 “(g) SANCTIONS.—

2 “(1) CIVIL PENALTIES.—

3 “(A) IN GENERAL.—Any person that vio-  
4 lates a regulation promulgated under this sec-  
5 tion shall be liable for a civil penalty in an  
6 amount not to exceed \$50,000.

7 “(B) SEPARATE VIOLATIONS.—Each day  
8 of a continuing violation constitutes a separate  
9 violation.

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

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

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

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

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

8                   “(B) the vessel complies with—

9                           “(i) recordkeeping requirements of  
10           this title;

11                          “(ii) contingency requirements of sec-  
12           tion 1211; and

13                          “(iii) reporting requirements of this  
14           title.”.

15 **SEC. 106. PROGRAM COORDINATION.**

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

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

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

11       “(j) INTERNATIONAL COOPERATION.—

12               “(1) IN GENERAL.—The Secretary, in coopera-  
13 tion with the International Maritime Organization of  
14 the United Nations and the Commission on Environ-  
15 mental Cooperation established pursuant to the  
16 North American Free Trade Agreement, is encour-  
17 aged to enter into negotiations with the governments  
18 of foreign countries to develop and implement an ef-  
19 fective international program for preventing the un-  
20 intentional introduction and spread of nonindigenous  
21 species.

22               “(2) SENSE OF CONGRESS ON INTERNATIONAL  
23 AGREEMENTS TO PROTECT AQUATIC ECOSYSTEMS  
24 FROM SPECIES INTRODUCTION THROUGH BALLAST  
25 WATER.—

1           “(A) FINDINGS.—The Congress finds  
2           that—

3                   “(i) the aquatic ecosystems of the  
4                   United States have been and continue to  
5                   be subject to permanent and costly damage  
6                   resulting from aquatic invasive species in-  
7                   troduced by ballast water of vessels enter-  
8                   ing United States ports;

9                   “(ii) the United States is currently  
10                  engaged in international negotiations over  
11                  regulation of the ballast water of vessels to  
12                  prevent the introductions;

13                  “(iii) this Act and the amendments  
14                  made by the National Aquatic Invasive  
15                  Species Act of 2003 establish a minimum  
16                  acceptable domestic effort to protect aquat-  
17                  ic ecosystems of the United States from  
18                  the introduction of invasive species by the  
19                  ballast water of vessels; and

20                  “(iv) the programs established under  
21                  this Act and the amendments made by the  
22                  National Aquatic Invasive Species Act of  
23                  2003 address the fundamental and legiti-  
24                  mate operations and safety concerns of the  
25                  maritime industry.

1           “(B) SENSE OF CONGRESS.—It is the  
2           sense of the Congress that the United States  
3           should become party to an international agree-  
4           ment that relates to the protection of aquatic  
5           ecosystems from the introduction of invasive  
6           species by the ballast water of vessels only if  
7           the agreement is at least as protective of the  
8           aquatic ecosystems as this Act and the amend-  
9           ments made by this Act.”.

10 **SEC. 107. VESSEL SAFETY.**

11           Section 1101(k) of the Nonindigenous Aquatic Nui-  
12           sance Prevention and Control Act of 1990 (16 U.S.C.  
13           1101(k)) is amended to read as follows:

14           “(k) SAFETY EXEMPTION.—

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

22           “(2) OTHER REQUIREMENTS.—A vessel that  
23           does not exchange ballast water on the high seas  
24           under paragraph (1) shall not discharge ballast  
25           water in any harbor, except in accordance with a

1 contingency strategy approved by the Secretary (and  
2 included in the invasive species management plan of  
3 the vessel) to reduce the risk of organism transfer  
4 by the discharge (using the best practicable tech-  
5 nology and practices pursuant to regulations promul-  
6 gated under subsection (b)(1)(B)(iii)).”.

7 **SEC. 108. RELATIONSHIP TO OTHER LAW.**

8 Section 1101 of the Nonindigenous Aquatic Nuisance  
9 Prevention and Control Act of 1990 (16 U.S.C. 1101) is  
10 further amended by adding at the end the following:

11 “(m) **APPLICABILITY; EFFECT ON OTHER LAW.**—  
12 Nothing in this section or any regulation promulgated  
13 under this section supersedes or otherwise affects any re-  
14 quirement or prohibition relating to the discharge of bal-  
15 last water under the Federal Water Pollution Control Act  
16 (33 U.S.C. 1251 et seq.).”.

17 **SEC. 109. ARMED SERVICES WHOLE VESSEL MANAGEMENT**  
18 **PROGRAM.**

19 (a) **IN GENERAL.**—Section 1103 of the Nonindige-  
20 nous Aquatic Nuisance Prevention and Control Act of  
21 1990 (16 U.S.C. 4713) is amended—

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

1 **“SEC. 1103. ARMED SERVICES WHOLE VESSEL MANAGE-**  
2 **MENT PROGRAM.”;**

3 and

4 (2) in subsection (a)—

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

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

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

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

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

20 “(B) CURRENT BALLAST PROGRAM.—Sub-  
21 paragraph (A) shall not affect the ballast pro-  
22 gram for Department of Defense vessels in ef-  
23 fect immediately before the enactment of the  
24 National Aquatic Invasive Species Act of 2003.

25 “(3) REPORTS.—Not later than 3 years after  
26 the date of enactment of the National Aquatic

1 Invasive Species Act of 2003, and every 3 years  
2 thereafter, the Secretary of Defense shall submit to  
3 the Congress a report that includes a summary and  
4 analysis of the program carried out under this sec-  
5 tion.”.

6 **SEC. 110. CONFORMING AMENDMENTS.**

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

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

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

1 **TITLE II—PREVENTION OF THE**  
2 **INTRODUCTION OF AQUATIC**  
3 **INVASIVE SPECIES BY OTHER**  
4 **PATHWAYS**

5 **SEC. 201. PRIORITY PATHWAY MANAGEMENT PROGRAM.**

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

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

11 “(a) IDENTIFICATION OF HIGH PRIORITY PATH-  
12 WAYS.—Not later than 2 years after the date of enactment  
13 of the National Aquatic Invasive Species Act of 2003, and  
14 every 3 years thereafter, the Task Force, in coordination  
15 with the Invasive Species Council and in consultation with  
16 representatives of States, industry, and other interested  
17 parties, shall, based on pathway surveys and other avail-  
18 able research relating to the rates of introductions in wa-  
19 ters of the United States—

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

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



1 shall be imported into the United States without screening  
2 and approval in accordance with subsections (c) and (d).

3 “(b) GUIDELINES.—

4 “(1) IN GENERAL.—Not later than 30 months  
5 after the date of enactment of the National Aquatic  
6 Invasive Species Act of 2003, in consultation with  
7 regional panels convened under section 1203, States,  
8 tribes, and other stakeholders, the Invasive Species  
9 Council (in conjunction with the Task Force) shall  
10 issue guidelines for screening proposed planned im-  
11 portations of live aquatic organisms into the United  
12 States, that include—

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

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

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

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

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

7           “(B) organisms that may occur in associa-  
8 tion with the organism planned for importation,  
9 including pathogens, parasites, and free-living  
10 organisms; and

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

13           “(c) CATEGORIES.—The screening process conducted  
14 pursuant to subsection (d) shall require the identification,  
15 to the maximum extent practicable, to the species level or,  
16 at least, to the genus level, of live aquatic organisms not  
17 in trade and shall list—

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

23           “(2) species with insufficient information to de-  
24 termine the risk category based on guidelines issued  
25 pursuant to subsection (b)(1)(B).

1 “(d) EVALUATION.—

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

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

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

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

1 States and contiguous areas of neighboring  
2 countries to which the organism may spread.

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

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

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

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

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

22 “(f) MEMORANDUM OF UNDERSTANDING.—

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

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

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

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

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

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

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

21 “(h) CATALOG OF ORGANISMS IN TRADE.—Not later  
22 than 1 year after the date of enactment of the National  
23 Aquatic Invasive Species Act of 2003, the Director of the  
24 United States Geological Survey and the Director of the  
25 Smithsonian Environmental Research Center, in coopera-

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

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

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

7 “(i) REVIEW AND REVISION.—

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

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

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

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

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

1       “(j) PROHIBITIONS.—It shall be unlawful for any  
2 person subject to the jurisdiction of the United States to  
3 import an organism described under subsection (c) or (d)  
4 or in violation of regulations promulgated under this sec-  
5 tion.

6       “(k) PENALTIES.—

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

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

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

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

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

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

5 **TITLE III—EARLY DETECTION;**  
6 **RAPID RESPONSE; CONTROL**  
7 **AND OUTREACH**

8 **SEC. 301. EARLY DETECTION.**

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

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

14       “(a) EARLY DETECTION.—

15               “(1) IN GENERAL.—Not later than 18 months  
16 after the date of enactment of the National Aquatic  
17 Invasive Species Act of 2003, in conjunction with  
18 the Council, the Task Force shall develop and pro-  
19 mulgate a set of sampling protocols, a geographic  
20 plan, and budget to support a national system of ec-  
21 ological surveys to rapidly detect recently established  
22 aquatic invasive species in waters of the United  
23 States.

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

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

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

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

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

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

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

17           “(3) IMPLEMENTATION.—Not later than 2  
18 years after the date of enactment of the National  
19 Aquatic Invasive Species Act of 2003, the Director  
20 of the United States Fish and Wildlife Service, the  
21 Administrator of the National Oceanic and Atmos-  
22 pheric Administration, and the Administrator (in  
23 consultation with the Invasive Species Council and  
24 in coordination with other agencies) shall implement  
25 a national system of ecological surveys that is—

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

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

8   **SEC. 302. RAPID RESPONSE.**

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

13   **“SEC. 1211. RAPID RESPONSE.**

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

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

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

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

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

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

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

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

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

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

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

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

11                 “(i) the extent of infestations; and

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

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

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

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

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

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

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

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

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

15                   “(2) are approved by—

16                           “(A) the Secretary; and

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

19           “(c) MODEL RAPID RESPONSE CONTINGENCY  
20 STRATEGIES.—Not later than 18 months after the date  
21 of enactment of the National Aquatic Invasive Species Act  
22 of 2003—

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

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

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

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

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

18 “(d) COST SHARING.—

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

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

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

4 “(e) FEDERAL RAPID RESPONSE TEAMS.—

5 “(1) ESTABLISHMENT OF TEAMS.—Not later  
6 than 1 year after the date of enactment of the Na-  
7 tional Aquatic Invasive Species Act of 2003, the  
8 Invasive Species Council, in coordination with the  
9 Task Force and the heads of appropriate Federal  
10 agencies, shall establish a Federal rapid response  
11 team for each of the 10 Federal regions that com-  
12 prise the Standard Federal Regional Boundary Sys-  
13 tem.

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

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

19 “(B) carry out, or assist in carrying out,  
20 rapid responses for newly detected aquatic  
21 invasive species on non-Federal land at the re-  
22 quest of a State, Indian tribe, or group of  
23 States or Indian tribes, with a rapid response  
24 contingency strategy approved under subsection  
25 (a) or (b);

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

3           “(D) provide central sources of informa-  
4 tion for rapid responders;

5           “(E) maintain a list of researchers and  
6 rapid response volunteers; and

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

13           “(3) CRITERIA FOR IDENTIFYING CASES OF  
14 RAPID RESPONSE WARRANTING FEDERAL ASSIST-  
15 ANCE.—Not later than 1 year after the date of en-  
16 actment of the National Aquatic Invasive Species  
17 Act of 2003, the Task Force, with the concurrence  
18 of the Invasive Species Council, shall develop criteria  
19 to identify cases of rapid response warranting Fed-  
20 eral assistance under this subsection, including cri-  
21 teria relating to, at a minimum—

22           “(A) the extent to which infestations of  
23 aquatic invasive species may be managed suc-  
24 cessfully by rapid response;

1           “(B) the extent to which rapid response ef-  
2           forts may differ from ongoing management and  
3           control; and

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

7                   “(i) biodiversity of native fish and  
8                   wildlife;

9                   “(ii) habitats of native fish and wild-  
10                  life; or

11                  “(iii) human health.

12           “(4) ENVIRONMENTAL CRITERIA.—Not later  
13           than 1 year after the date of enactment of the Na-  
14           tional Aquatic Invasive Species Act of 2003, the Ad-  
15           ministrator, in consultation with the Invasive Spe-  
16           cies Council, the Secretary of Transportation, the  
17           Task Force (including regional panels of the Task  
18           Force established under section 1203), the Director,  
19           and the Director of the National Marine Fisheries  
20           Service, shall develop environmental criteria to mini-  
21           mize nontarget environmental impacts of rapid re-  
22           sponses carried out pursuant to this section.”.

1 **SEC. 303. DISPERSAL BARRIERS.**

2 (a) IN GENERAL.—Section 1202 of the Nonindige-  
3 nous Aquatic Nuisance Prevention and Control Act of  
4 1990 (16 U.S.C. 4722) is amended—

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

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

9 “(j) NATIONAL DISPERSAL BARRIER PROGRAM.—

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

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

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

21 “(C) CONSTRUCTION.—The completed bar-  
22 rier project shall include additions to the dis-  
23 persal barrier in existence on the date of enact-  
24 ment of the National Aquatic Species Act of  
25 2003, including—

26 “(i) backup power;

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

3           “(iii) replacement electrodes;

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

6           “(v) an acoustic monitoring system;

7           “(vi) an emergency egress system; and

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

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

12           “(i) IN GENERAL.—Not later than 3  
13 years after the date of enactment of the  
14 National Aquatic Invasive Species Act of  
15 2003, the Assistant Secretary, in consulta-  
16 tion with appropriate Federal, State, local,  
17 and nongovernmental entities, shall con-  
18 duct a feasibility study of the full range of  
19 options available to prevent the spread of  
20 aquatic species through the Chicago River  
21 Ship and Sanitary dispersal barrier.

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

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

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

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

13 “(2) MONITORING PROGRAM.—

14 “(A) ESTABLISHMENT.—Not later than 1  
15 year after the date of enactment of the Na-  
16 tional Aquatic Invasive Species Act of 2003, the  
17 Secretary of the Interior shall establish an  
18 interbasin and intrabasin monitoring program.

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

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

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

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

7 “(iii) identify waterways suitable for  
8 dispersal barrier demonstration projects, in  
9 addition to the waterways at which dis-  
10 persal barrier demonstration projects were  
11 carried out before the date of enactment of  
12 the National Aquatic Invasive Species Act  
13 of 2003.

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

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

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

7           “(5) REPORTS.—Not later than 3 years after  
8 the date of enactment of the National Aquatic  
9 Invasive Species Act of 2003, the Assistant Sec-  
10 retary and the Director shall jointly submit to the  
11 Congress a report that describes—

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

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

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

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

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

3 **SEC. 304. ENVIRONMENTAL SOUNDNESS.**

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

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

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

12           “(A) IN GENERAL.—Not later than 1 year  
13 after the date of enactment of the National  
14 Aquatic Invasive Species Act of 2003, the Ad-  
15 ministrator, in consultation and cooperation  
16 with the Secretary, the Invasive Species Coun-  
17 cil, and the Task Force (including any regional  
18 panels of the Task Force) shall promulgate cri-  
19 teria to evaluate the treatment methods de-  
20 scribed in subparagraph (B) for the purpose of  
21 ensuring that the treatment methods pose no  
22 significant threat of adverse effect on human  
23 health, public safety, or the environment (in-  
24 cluding air quality and the aquatic environ-

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

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

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

14 “(i) the Secretary of Transportation;

15 “(ii) the Task Force (including the re-  
16 gional panels of the Task Force established  
17 under section 1203);

18 “(iii) the Director;

19 “(iv) the Assistant Secretary;

20 “(v) the Director of the National Ma-  
21 rine Fisheries Service; and

22 “(vi) relevant State agencies.

23 “(2) PUBLICATION OF INFORMATION ON ENVI-  
24 RONMENTALLY SOUND TREATMENT METHODS.—The  
25 Administrator, in consultation with the Invasive Spe-

1       cies Council, shall publish (not later than 1 year  
2       after the date of enactment of the National Aquatic  
3       Invasive Species Act of 2003) and update annu-  
4       ally—

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

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

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

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

18   **SEC. 305. SPECIFIC INVASIVE SPECIES CONTROL PRO-**  
19                                   **GRAMS.**

20       Section 1209 of the Nonindigenous Aquatic Nuisance  
21   Prevention and Control Act of 1990 (16 U.S.C. 4728) is  
22   amended to read as follows:

23   **“SEC. 1209. SPECIFIC INVASIVE SPECIES CONTROL PRO-**  
24                                   **GRAMS.**

25       “(a) BROWN TREE SNAKE.—

1           “(1) IN GENERAL.—The Task Force and the  
2 Invasive Species Council shall support the continu-  
3 ation and expansion of a regionally based com-  
4 prehensive, environmentally sound program, con-  
5 ducted in coordination with territories and posses-  
6 sions of the United States, States, and political sub-  
7 divisions, to control the brown tree snake on Guam,  
8 the Commonwealth of the Northern Mariana Is-  
9 lands, the State of Hawaii, and other areas in which  
10 the brown tree snake is, or may become, established  
11 outside of the historic range of the brown tree  
12 snake.

13           “(2) COMPONENTS.—The program shall in-  
14 clude—

15           “(A) the expansion of Federal and terri-  
16 torial control programs on Guam that reduce  
17 the undesirable impact of the brown tree snake  
18 on Guam and reduce the risk of spread to areas  
19 in which the snake is not established;

20           “(B) the expansion of existing control pro-  
21 grams in the Commonwealth of the Northern  
22 Mariana Islands and the State of Hawaii, in-  
23 cluding the establishment of interagency rapid  
24 response teams to assist local governments with  
25 detecting brown tree snakes and incipient

1 brown tree snake populations in areas in which  
2 brown tree snakes are not established;

3 “(C) product-oriented research based on  
4 control program needs, including projects to re-  
5 duce the number of brown tree snakes on Guam  
6 and an analysis of pathways for brown tree  
7 snake introduction into areas in which the spe-  
8 cies is not established;

9 “(D) the appointment of a coordinator by  
10 the Invasive Species Council to provide over-  
11 sight and direction over Federal actions dealing  
12 with brown tree snake control; and

13 “(E) the continuation of the Brown Tree  
14 Snake Control Committee, which shall—

15 “(i) be chaired by the coordinator;  
16 and

17 “(ii) meet annually to plan and co-  
18 ordinate ongoing brown tree snake control  
19 activities on a regional and national level.

20 “(b) NUTRIA.—

21 “(1) IN GENERAL.—Not later than 180 days  
22 after the date of enactment of the National Aquatic  
23 Invasive Species Act of 2003, the Task Force shall  
24 establish a national subcommittee on nutria com-  
25 posed of representatives of—

1           “(A) the United States Fish and Wildlife  
2           Service;

3           “(B) the United States Geological Survey;

4           “(C) State fish and wildlife agencies in  
5           States affected by nutria; and

6           “(D) nonprofit and commercial interests in  
7           nutria and the impact of nutria on native habi-  
8           tat and species.

9           “(2) PROPOSAL FOR NUTRIA CONTROL.—Not  
10          later than 1 year after the date of enactment of the  
11          National Aquatic Invasive Species Act of 2003, the  
12          subcommittee shall—

13           “(A) report to the Task Force on actions  
14           taken to carry out this subsection;

15           “(B) draft a proposal for—

16           “(i) nutria control guidelines; and

17           “(ii) support, criteria, and processes  
18           for grants to promote State and regional  
19           partnership efforts to control nutria in ac-  
20           cordance with the guidelines; and

21           “(C) submit the proposal to the Task  
22           Force for approval, including a recommendation  
23           to the Task Force on national priority tasks  
24           and resources required to carry out the pro-  
25           posal.

1           “(3) OTHER DUTIES.—In addition to the re-  
2           sponsibilities described in paragraph (2), the sub-  
3           committee shall—

4                   “(A) oversee and coordinate implementa-  
5                   tion of approved national priority tasks relating  
6                   to nutria control;

7                   “(B) review State and regional partnership  
8                   grant proposals and make recommendations to  
9                   the Task Force on making grants to carry out  
10                  the proposals; and

11                  “(C) carry out additional duties assigned  
12                  to the subcommittee by the Task Force (includ-  
13                  ing a co-chairperson of the Task Force).”.

14 **SEC. 306. INFORMATION, EDUCATION, AND OUTREACH.**

15           Section 1202(h) of the Nonindigenous Aquatic Nui-  
16           sance Prevention and Control Act of 1990 (16 U.S.C.  
17           4722(h)) is amended—

18                   (1) by striking “(h) EDUCATION.—The Task  
19                   Force” and inserting the following:

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

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

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

23                           “(2) ACTIVITIES.—

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

4           “(B) PUBLIC OUTREACH.—

5           “(i) PUBLIC WARNINGS.—Not later  
6 than 180 days after the date of enactment  
7 of the National Aquatic Invasive Species  
8 Act of 2003, each Federal officer of an  
9 agency that provides Federal funds to  
10 States for building or maintaining public  
11 access points to United States water bodies  
12 shall amend the guidelines of the agency,  
13 in consultation with relevant State agen-  
14 cies, to encourage the posting of regionally  
15 specific public warnings or other suitable  
16 informational and educational materials at  
17 the access points regarding—

18           “(I) the danger of spread of  
19 aquatic invasive species through the  
20 transport of recreational watercraft;  
21 and

22           “(II) methods for removing orga-  
23 nisms prior to transporting a  
24 watercraft.

1           “(ii) CLEANING OF WATERCRAFT AT  
2           MARINAS.—Not later than 1 year after the  
3           date of enactment of the National Aquatic  
4           Invasive Species Act of 2003, the Under  
5           Secretary and the Director (in cooperation  
6           with the Task Force and in consultation  
7           with the States, relevant industry groups,  
8           and Indian tribes) shall develop an edu-  
9           cation, outreach, and training program di-  
10          rected toward marinas and marina opera-  
11          tors regarding—

12                   “(I) checking watercraft for live  
13                   organisms;

14                   “(II) removing live organisms  
15                   from the watercraft before the  
16                   watercraft are commercially or  
17                   recreationally trailered;

18                   “(III) encouraging regular hull  
19                   cleaning and maintenance, avoiding  
20                   in-water hull cleaning; and

21                   “(IV) other activities, as identi-  
22                   fied by the Secretary.

23           “(iii) PROPER DISPOSAL OF NON-  
24           NATIVE LIVE AQUATIC ORGANISMS IN  
25           TRADE.—The Task Force shall—

1           “(I) not later than 1 year after  
2           the date of enactment of the National  
3           Aquatic Invasive Species Act of 2003,  
4           develop (in consultation with industry  
5           and other affected parties) issue  
6           guidelines for proper disposal of live  
7           nonnative aquatic organisms in trade;  
8           and

9           “(II) use the guidelines in appro-  
10          priate public information and out-  
11          reach efforts.

12          “(C) 100TH MERIDIAN PROGRAM.—

13           “(i) IN GENERAL.—Not later than 1  
14          year after the date of enactment of the  
15          National Aquatic Invasive Species Act of  
16          2003, the Task Force shall expand the in-  
17          formation and education program directed  
18          at recreational boaters in States from  
19          which watercraft are transported westward  
20          across the 100th meridian.

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

23           “(I) survey owners of watercraft  
24          transported westward across the

1                   100th meridian to determine the  
2                   States of origin of most such owners;

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

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

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

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

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

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

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

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

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

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

# 1           **TITLE IV—COORDINATION**

## 2   **SEC. 401. PROGRAM COORDINATION.**

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

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

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

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

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

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

16           “(9) the Secretary of State;

17           “(10) the Secretary of Transportation;

18           “(11) the Secretary of Homeland Security;  
19 and”.

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

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

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

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

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

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

10           “(B) not later than 2 years after the date  
11 of enactment of the National Aquatic Invasive  
12 Species Act of 2003, and every 3 years there-  
13 after, submit to Congress a report that summa-  
14 rizes the status of the conduct of activities au-  
15 thorized by and required under this Act; and

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

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

24           “(3) RECOMMENDATIONS FOR LISTS.—

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

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

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

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

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

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

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

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

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

15 (1) in paragraph (2)—

16 (A) in subparagraph (A), by inserting be-  
17 fore the semicolon at the end the following: “,  
18 including, in accordance with guidelines issued  
19 by the Task Force under paragraph (5)—

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

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

24 “(iii) aquatic plant control programs  
25 pursuant to other law; and

1                   “(iv) screening of planned introduc-  
2                   tions pursuant to section 1105”; and

3                   (B) in subparagraph (D), by inserting “in-  
4                   clude” after “(D)”; and

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

6                   “(5) GUIDELINES.—

7                   “(A) IN GENERAL.—Not later than 1 year  
8                   after the date of enactment of the National  
9                   Aquatic Invasive Species Act of 2003, the Task  
10                  Force shall publish in the Federal Register  
11                  guidelines for the development of plans under  
12                  this subsection, including guidelines for report-  
13                  ing progress in implementing the plans, to en-  
14                  courage consistency in implementation of and  
15                  reporting under those plans.

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

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

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

24                         “(iii) aquatic plant control programs;

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

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

7           “(6) RELATIONSHIP TO OTHER PLANS.—

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

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

23          “(7) REVIEW AND REVISION.—

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

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

4           “(B) UPDATE OF EXISTING PLANS.—A  
5           State plan approved under the section before  
6           the date of the enactment of the National  
7           Aquatic Species Act of 2003 shall be revised by  
8           the State under guidelines issued by the Direc-  
9           tor to conform to the guidelines published  
10          under paragraph (5), but shall be treated as a  
11          plan approved under this subsection for pur-  
12          poses of grants under this section.

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

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

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

5           “(B) to implement those plans.”.

6 **SEC. 402. INTERNATIONAL COORDINATION.**

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

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

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

13           and

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

15 **“SEC. 1402. INTERNATIONAL COORDINATION.**

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

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

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

11               “(2) NEGOTIATIONS.—As soon as practicable  
12 after the date of enactment of the National Aquatic  
13 Invasive Species Act of 2003, the Secretary of State  
14 may enter into negotiations with—

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

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

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

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

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

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

20 **TITLE V—AUTHORIZATION OF**  
21 **APPROPRIATIONS**

22 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

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

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

2 “(a) IN GENERAL.—Except as otherwise provided in  
3 this section, there are authorized to be appropriated such  
4 sums as are necessary to carry out this Act for each of  
5 fiscal years 2004 through 2008.

6 “(b) TASK FORCE AND AQUATIC NUISANCE SPECIES  
7 PROGRAM.—There are authorized to be appropriated for  
8 each of fiscal years 2004 through 2008—

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

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

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

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

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

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

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

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

1 to carry out section 1403 \$1,000,000 for each of fiscal  
2 years 2004 through 2008.

3 “(d) PREVENTION OF INTRODUCTION BY VESSELS  
4 OF AQUATIC INVASIVE SPECIES INTO WATERS OF THE  
5 UNITED STATES.—There are authorized to be appro-  
6 priated for each of fiscal years 2004 through 2008—

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

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

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

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

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

17 “(e) PREVENTION OF THE INTRODUCTION BY NON-  
18 VESSEL PATHWAYS OF AQUATIC INVASIVE SPECIES INTO  
19 WATERS OF THE UNITED STATES.—There are authorized  
20 to be appropriated for each of fiscal years 2004 through  
21 2008—

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

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

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

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

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

12          “(f) EARLY DETECTION AND MONITORING.—There  
13          is authorized to be appropriated, to carry out early detec-  
14          tion, monitoring, and survey planning and implementation  
15          under section 1106, \$2,000,000 for each of fiscal years  
16          2004 and 2005 and \$10,000,000 for each of fiscal years  
17          2006 through 2008, of which—

18                 “(1) for each of fiscal years 2004 and 2005—

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

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

24                 “(2) for each of fiscal years 2006 through  
25                 2008—

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

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

6           “(g) CONTAINMENT AND CONTROL.—

7           “(1) DISPERSAL BARRIERS.—There are author-  
8           ized to be appropriated for each of fiscal years 2004  
9           through 2008—

10           “(A) \$300,000, to be used by the Assistant  
11           Secretary in carrying out operation and mainte-  
12           nance of the Chicago River Canal Dispersal  
13           Barrier under section 1202(j)(1);

14           “(B) \$1,800,000, to be used by the Assist-  
15           ant Secretary in carrying out the complete con-  
16           struction of the Chicago River Canal Dispersal  
17           Barrier;

18           “(C) \$8,000,000, to be used by the Assist-  
19           ant Secretary for the construction of a second  
20           long-service life barrier for the Chicago River  
21           Canal;

22           “(D) \$500,000, to be used by the Assist-  
23           ant Secretary to carry out a feasibility study for  
24           the construction described in subparagraph (C);  
25           and

1           “(E) \$2,150,000, to be used by the Direc-  
2           tor to carry out the monitoring program under  
3           section 1202(j)(2).

4           “(2) RAPID RESPONSE.—There are authorized  
5           to be appropriated for each of fiscal years 2004  
6           through 2008—

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

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

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

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

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

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

1       cies \$600,000 for each of fiscal years 2003 through  
2       2007.

3           “(4) SPECIFIC INVASIVE SPECIES CONTROL  
4       PROGRAMS.—There is authorized to be appropriated  
5       to the Director, to carry out section 1209,  
6       \$9,000,000 for each of fiscal years 2004 through  
7       2008, of which—

8           “(A) \$3,000,000 shall be used for the nu-  
9       tria control program; and

10          “(B) \$6,000,000 shall be used for the  
11       brown tree snake program.

12       “(h) INFORMATION, EDUCATION, AND OUTREACH.—  
13       There are authorized to be appropriated for each of fiscal  
14       years 2004 through 2008—

15          “(1) \$500,000, to be used by the Secretary of  
16       the Interior to carry out the information and edu-  
17       cation program under section 1202(h)(2)(D);

18          “(2) \$750,000, to be used by the Director in  
19       carrying out the 100th meridian program under sec-  
20       tion 1202(h)(2)(C);

21          “(3) \$2,000,000, to be used to carry out infor-  
22       mational and educational activities of the Task  
23       Force under section 1202(h), of which—

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

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

6           “(4) \$500,000, to be used by the National Oce-  
7           anic and Atmospheric Administration to carry out  
8           section 1202(h)(2)(B)(ii).”.

9           **TITLE VI—CONFORMING**  
10           **AMENDMENTS**

11       **SEC. 601. CONFORMING AMENDMENTS.**

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

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

16       **“SEC. 1101. PREVENTION OF INTRODUCTION OF AQUATIC**  
17           **INVASIVE SPECIES INTO WATERS OF THE**  
18           **UNITED STATES BY VESSELS.”;**

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

20           (A) in subsection (a), by striking the sub-  
21       section heading and inserting the following:

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

24           (B) in subsection (b)—

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

1 (ii) by redesignating paragraphs (2)  
2 and (3) as paragraphs (1) and (2), respec-  
3 tively;

4 (3) in subtitle C (16 U.S.C. 4721 et seq.), by  
5 striking the subtitle heading and inserting the fol-  
6 lowing:

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

10 (4) in section 1201(a) (16 U.S.C. 4721(a)), by  
11 striking “Nuisance Species” and inserting “Invasive  
12 Species”;

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

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

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

18 **“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGE-**  
19 **MENT PLANS.”;**

20 and

21 (7) by striking “aquatic nuisance species” each  
22 place it appears and inserting “aquatic invasive spe-  
23 cies”.

24 (b) SHORT TITLE.—

1           (1) Section 1001 of the Nonindigenous Aquatic  
2 Nuisance Prevention and Control Act of 1990 (16  
3 U.S.C. 4701) is amended by striking “Nonindige-  
4 nous Aquatic Nuisance” and inserting “Nonindige-  
5 nous Aquatic Invasive Species”.

6           (2) REFERENCES.—Any reference in a law,  
7 map, regulation, document, paper, or other record of  
8 the United States to the Nonindigenous Aquatic  
9 Nuisance Prevention and Control Act of 1990 shall  
10 be deemed to be a reference to the Nonindigenous  
11 Aquatic Invasive Species Prevention and Control Act  
12 of 1990.

○