To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
MARCH 28, 2006
Mrs. MILLER of Michigan 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

A BILL
To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

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

SECTION 1. SHORT TITLE.
This Act may be cited as the “Prevention of Aquatic Invasive Species Act of 2006”.

SEC. 2. FINDINGS.
Section 1002(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C.
4701(a)) is amended by striking “and” after the semicolon at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting a semicolon, and by adding at the end the following:

“(16) the introduction of aquatic invasive species into the Nation’s waters is one of the most urgent issues facing aquatic ecosystems in the United States;

“(17) the direct and indirect costs of aquatic invasive species to the economy of the United States have been estimated at billions of dollars per year;

“(18) invasive species are thought to have been involved in 70 percent of the last century’s extinctions of native aquatic species;

“(19) aquatic invasive species are a significant problem throughout the United States, including Hawaii, Alaska, San Francisco Bay, the Great Lakes, the Southeast, and the Chesapeake Bay;

“(20) ballast water from ships is one of the largest pathways for the introduction and spread of aquatic invasive species;

“(21) it has been estimated that some 10,000 non-indigenous aquatic species travel around the globe each day in the ballast water of cargo ships;
“(22) over 2 billion gallons of ballast water are discharged in United States waters each year;

“(23) ballast water has been found to transport not only invasive plants and animals but pathogens as well, such as cholera;

“(24) aquatic invasive species may also be introduced by other vessel conduits, including the hulls of ships;

“(25) aquatic invasive species may be transferred from other countries, or from distinct regions in the United States;

“(26) current Federal programs are insufficient to effectively address this growing problem;

“(27) preventing aquatic invasive species from being introduced is the most cost-effective approach for addressing this issue because, once established, they are costly and sometimes impossible to control;

“(28) in 2004, the International Maritime Organization agreed to a Convention, which the United States played an active role in negotiating, to prevent, minimize, and ultimately eliminate the transfer of aquatic invasive species through the control and management of ballast water and sediments; and

“(29) the International Maritime Organization agreement specifically recognizes that countries can
take more stringent measures than those of the Con-
vention with respect to the control and management
of ships’ ballast water and sediment.”.

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

SEC. 101. BALLAST WATER MANAGEMENT.

(a) In General.—Section 1101 of the Nonindige-
 nous Aquatic Nuisance Prevention and Control Act of
1990 (16 U.S.C. 4711) is amended to read as follows:

“SEC. 1101. PREVENTION OF INTRODUCTION OF AQUATIC INVASIVE SPECIES INTO WATERS OF THE UNITED STATES BY VESSELS.

“(a) VESSELS TO WHICH THIS SECTION APPLIES.—

“(1) IN GENERAL.—Except as provided in para-
graphs (2), (3), and (4), this section applies to a
vessel (including a towed vessel, and any structure
being towed by a vessel) that is designed, con-
structed, or adapted to carry ballast water; and

“(A) is a vessel (or a structure being towed
by a vessel) of United States registry or nation-
ality, or operated under the authority of the
United States, wherever located; or
“(B) is a foreign vessel that (or a structure being towed by a foreign vessel that)—

“(i) is en route to a United States port or place; or

“(ii) has departed from a United States port or place and is within waters subject to the jurisdiction of the United States.

“(2) PERMANENT BALLAST WATER VESSELS.—

This section does not apply to a vessel that carries all of its permanent ballast water in sealed tanks and is not subject to discharge.

“(3) ARMED FORCES VESSELS.—

“(A) EXEMPTION.—Except as provided in subparagraph (B), this section does not apply to a vessel of the Armed Forces.

“(B) BALLAST WATER MANAGEMENT PROGRAM.—The Secretary of Defense and the Secretary, after consultation with the Administrator and the Under Secretary, shall implement a ballast water management program, including the promulgation of standards for ballast water exchange and treatment and for sediment management, for vessels of the Armed Forces under their respective jurisdictions de-
signed, constructed, or adapted to carry ballast
water that is—

“(i) consistent with the requirements
of this section, including the deadlines; and

“(ii) at least as stringent as the re-
quirements promulgated for such vessels
under section 312 of the Federal Water
Pollution Control Act (33 U.S.C. 1322).

“(4) SPECIAL RULE FOR SMALL RECREATIONAL
VESSELS.—In applying this section to recreational
vessels less than 50 meters in length that have a
maximum ballast water capacity of 8 cubic meters,
the Secretary may promulgate alternative measures
for managing ballast water in a manner that is con-
sistent with the requirements of this section.

“(b) UPTAKE AND DISCHARGE OF BALLAST WATER
OR SEDIMENT.—

“(1) PROHIBITION.—The operator of a vessel to
which this section applies may not conduct the up-
take or discharge of ballast water or sediment except
as provided in this section.

“(2) EXCEPTIONS.—Paragraph (1) does not
apply to the uptake or discharge of ballast water or
sediment in the following circumstances:
“(A) The uptake or discharge is solely for the purpose of—

“(i) ensuring the safety of the vessel in an emergency situation; or

“(ii) saving a life at sea.

“(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

“(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

“(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

“(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge from the vessel of pollution that would otherwise violate applicable Federal or State law.

“(D) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of that ballast water and that sediment originated and there is no mixing with
ballast water and sediment from another area that has not been managed in accordance with the requirements of this section.

“(c) AQUATIC INVASIVE SPECIES PLAN.—

“(1) IN GENERAL.—The operator of a vessel to which this section applies shall conduct all ballast water management operations of that vessel in accordance with an aquatic invasive species plan designed to minimize the discharge of aquatic invasive species that—

“(A) meets the requirements prescribed by the Secretary by regulation; and

“(B) is approved by the Secretary.

“(2) APPROVAL CRITERIA.—

“(A) IN GENERAL.—The Secretary may not approve an aquatic invasive species plan unless the Secretary determines that the plan—

“(i) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

“(ii) describes in detail the procedures to be used for disposal of sediment at sea and on shore in accordance with the requirements of this section;
“(iii) describes in detail safety procedures for the vessel and crew associated with ballast water management;

“(iv) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

“(v) contains the reporting requirements for vessels established under this section and a copy of each form necessary to meet those requirements;

“(vi) includes documents relevant to aquatic invasive species management equipment and procedures;

“(vii) includes the location of access points for sampling ballast water and sediment;

“(viii) includes other requirements prescribed by the Secretary, including operational requirements for complying with subsections (f) and (g);

“(ix) includes a contingency plan for acting under the safety or stability exception under subsection (f)(4), that includes procedures to reduce the risk of organism transfer via ballast water discharge; and
“(x) meets all other requirements prescribed by the Secretary.

“(B) FOREIGN VESSELS.—The Secretary may approve an aquatic invasive species plan for a foreign vessel (as defined in section 2101(12) of title 46, United States Code) on the basis of a certificate of compliance with the criteria described in subparagraph (A) issued by the vessel’s country of registration in accordance with regulations promulgated by the Secretary.

“(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall—

“(A) maintain a copy of the vessel’s aquatic invasive species plan on board at all times; and

“(B) keep the plan readily available at all reasonable times for examination by the Secretary or a representative of the State in which the port is located.

“(4) REGULATIONS.—The Secretary, in consultation with the Task Force, shall issue regulations prescribing the requirements of this subsection.

“(d) VESSEL BALLAST WATER RECORD BOOK.—
“(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain a ballast water record book in English on board the vessel in which—

“(A) each operation involving the uptake or discharge of ballast water or sediment discharge is fully recorded without delay, in accordance with regulations promulgated by the Secretary;

“(B) each such operation is described in detail, including the location and circumstances of, and the reason for, the operation; and

“(C) the exact nature and circumstances of any situation under which any operation was conducted under an exception set forth in subsection (b)(2) or (f)(4) is described.

“(2) AVAILABILITY.—The ballast water record book—

“(A) shall be kept readily available for examination by the Secretary or a representative of the State at all reasonable times in each port that is entered by the vessel; and

“(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.
“(3) RETENTION PERIOD.—The ballast water record book shall be retained—

“(A) on board the vessel for a period of 3 years after the date on which the last entry in the book is made; and

“(B) under the control of the vessel’s owner for an additional period of 3 years.

“(4) REGULATIONS.—In the regulations prescribed under this section, the Secretary shall require, at a minimum, that—

“(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded;

“(B) each completed page in the ballast water record book be signed and dated by the master of the vessel; and

“(C) the owner or operator of the vessel transmit such information to the Secretary regarding the ballast operations of the vessel as the Secretary may require.

“(5) ALTERNATIVE MEANS OF RECORD-KEEPING.—The Secretary shall provide by regulation for alternative methods of recordkeeping, including electronic recordkeeping, to comply with the requirements of this subsection.
“(6) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—Records required for a vessel under this subsection shall be transmitted by the owner or operator of the vessel to the National Ballast Information Clearinghouse established under section 1102(f).

“(e) BEST MANAGEMENT PRACTICES.—

“(1) GUIDELINES FOR BEST MANAGEMENT PRACTICES.—The Secretary shall issue guidance for best management practices for purposes of compliance with this section by no later than 18 months after the date of the enactment of this subsection.

“(2) CONTENT.—The guidance shall include—

“(A) sediment management in transoceanic vessels, including—

“(i) saltwater flushing of ballast tanks in accordance with subsection (f)(9) at regular intervals, for vessels that declare no-ballast-on-board or claim to be carrying only unpumpable quantities of ballast water;

“(ii) the minimization of ballast water uptake in areas with a greater risk of harmful organisms entering ballast tanks, such as areas with toxic algal blooms or
known outbreaks of aquatic invasive species;

“(iii) the avoidance of unnecessary ballast water discharge in a port of ballast water taken up in another port;

“(iv) to the maximum extent possible, the collection and proper disposal of debris from cleaning of the vessel’s hull;

“(v) the proper use of anti-fouling coating; and

“(vi) the minimization of the transfer of aquatic invasive species from other pathways relevant to the vessel or towed structure, including the hull.

“(f) Ballast Water Exchange Requirements.—

“(1) In general.—Until a vessel is required to conduct ballast water treatment in accordance with subsection (g) of this section, the operator of a vessel to which this section applies may not discharge ballast water except after—

“(A) conducting ballast water exchange, in accordance with paragraph (3) and regulations prescribed by the Secretary, in a manner that results in an efficiency of at least 95 percent
volumetric exchange of the ballast water for each ballast water tank;

“(B) meeting the requirements of paragraph (9), if the vessel’s condition is such that the vessel is declared to have no ballast on board or is claimed to be carrying only unpumpable quantities of ballast;

“(C) using ballast water treatment that meets the performance standards of subsection (g); or

“(D) using an environmentally sound alternative ballast water treatment method if the Secretary determines that the performance of such treatment meets, for the relevant vessel or group vessels, the International Maritime Organization standard for treatment in the Ballast Water Management Convention.

“(2) ALTERNATIVE BALLAST WATER TREATMENT TECHNOLOGY TO MEET IMO STANDARDS.—

“(A) IN GENERAL.—Within 1 year after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator and the Under Secretary, shall promulgate regulations to establish an approval process for alternative ballast water treatment tech-
nologies meeting the International Maritime Organization standard for treatment in the Ballast Water Management Convention.

“(B) Compliance with ballast water exchange requirements.—A vessel is not in compliance with paragraph (1)(D) unless the Secretary, under the approval process established under subparagraph (A) of this paragraph, approves the technology employed by the vessel for purposes of complying with paragraph (1)(D).

“(C) Incentives for use of alternative treatment methods.—If a vessel uses an alternative ballast water treatment technology approved under this paragraph, then vessel is in compliance with subsection (g) for the 10-year period beginning on the date that the approved technology is first placed on the vessel.

“(D) Revocation of approval.—The Secretary shall revoke approval for an alternative technology if—

“(i) it is discovered the technology does not meet the International Maritime
Organization standard for treatment in the Ballast Water Management Convention; or

“(ii) use of the technology causes harm to the environment.

“(E) DISCRETIONARY REVOCATION OF APPROVAL.—The Secretary may revoke approval for an alternative technology if revocation of approval is appropriate under any circumstance.

“(3) EXCHANGE AREAS.—

“(A) IN GENERAL.—A vessel is in compliance with paragraph (1)(A) only if—

“(i) in the case of a vessel en route to a United States port or place from a port or place outside the United States exclusive economic zone, the vessel conducts ballast water exchange—

“(I) at least 200 nautical miles from the nearest point of land in the United States; and

“(II) in water at least 200 meters in depth;

“(ii) in the case of a vessel originating from a port or place within the United States exclusive economic zone, or from a port within 200 nautical miles of the
United States in Canada, Mexico, or other ports designated by the Secretary for purposes of this section, the vessel conducts ballast water exchange—

“(I) at least 50 nautical miles from the nearest point of land in the United States, or in an area determined by the Secretary under subparagraph (B) of this paragraph or paragraph (6); and

“(II) in water at least 200 meters in depth.

“(B) Designation of Exchange Areas.—

“(i) Designation.—If the Secretary, in consultation with the Administrator and the Under Secretary, determines based on oceanographic information that 50 nautical miles is an inadequate distance from the nearest point of land in the United States to prevent harm to coastal areas from organisms released in ballast water exchanges, the Secretary shall issue regulations that establish designated areas for allowable ballast water exchange. The des-
ignated areas shall be located not more
than 100 nautical miles from the nearest
point of land in the United States.

“(ii) Exchange deemed in compliance.—Any ballast water exchange con-
ducted in accordance with regulations
issued under this subparagraph is deemed
to comply with this paragraph.

“(4) Safety or stability exception.—

“(A) In general.—Paragraphs (1) and
(3) do not apply to the discharge of ballast
water by a vessel if the master of a vessel deter-
mines that compliance with those paragraphs
would threaten the safety or stability of the ves-
sel, its crew, or its passengers because of ad-
verse weather, equipment failure, or any other
relevant condition.

“(B) Notification required.—When-
ever the master of a vessel is unable to comply
with the requirements of paragraphs (1) and
(3) because of a determination made under sub-
paragraph (A), the master of the vessel shall—

“(i) notify the Secretary as soon as
practicable thereafter but no later than 24
hours after making that determination;
“(ii) ensure that the determination, the reasons for the determination, and the notice are recorded in the vessel’s ballast water record book; and

“(iii) conduct one of the following—

“(I) undertake ballast water exchange in an alternative area designated by the Secretary under paragraph (3)(B) or paragraph (6);

“(II) undertake discharge of ballast water in accordance with paragraph (7); or

“(III) act in accordance with a contingency plan included in the vessel’s aquatic invasive species plan.

“(C) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge under this paragraph, the Secretary shall review the circumstances to determine whether the discharge met the requirements of this paragraph. The review under this subparagraph shall be in addition to any other enforcement authority of the Secretary.

“(5) DISCHARGE UNDER WAIVER.—
“(A) **SUBSTANTIAL BUSINESS HARDSHIP WAIVER.**—If, because of the short length of a voyage, the operator of a vessel is unable to discharge ballast water in accordance with the requirements of paragraph (3)(A)(ii) without substantial business hardship, as determined under regulations prescribed by the Secretary, the operator may request a waiver from the Secretary to discharge ballast water in accordance with paragraph (7). A request for a waiver under this subparagraph shall be submitted to the Secretary at such time and in such form and manner as the Secretary may require.

“(B) **SUBSTANTIAL BUSINESS HARDSHIP.**—For purposes of subparagraph (A), the factors taken into account in determining substantial business hardship shall include whether—

“(i) compliance with the requirements of paragraph (3)(A)(ii) would require a sufficiently great change in routing or scheduling of service as to compromise the economic or commercial viability of the trade or business in which the vessel is operated; or
“(ii) it is reasonable to expect that the
trade or business or service provided will
be continued only if a waiver is granted
under subparagraph (A).

“(C) AQUATIC INVASIVE SPECIES PLAN.—
If the Secretary grants a waiver under this
paragraph for a vessel, then the aquatic
invasive species plan as required for the vessel
under subsection (c) shall be revised to include
operations to minimize the risk of introduction
of aquatic invasive species.

“(6) DESIGNATION OF ALTERNATIVE AREAS.—

“(A) REVIEW OF POTENTIAL ALTERNATIVE AREAS.—Within 1 year after the date
of the enactment of this paragraph, the Sec-
etary, in consultation with the Under Sec-
etary, the Task Force, the Administrator, and
a representative of any State that may be af-
fected by discharge of ballast water in an area,
shall finish a review to assist in the designation
of alternative areas that would not be affected
by the discharge of ballast water.

“(B) REGULATIONS.—After completion of
the review in accordance with subparagraph
(A), the Secretary may issue regulations desig-
nating alternative areas where the discharge of
ballast water would not affect the surrounding
aquatic ecosystem.

“(C) REVIEW AND REVISION.—The Sec-
retary shall review and revise the designation of
alternative areas under this paragraph as nec-
essary.

“(D) SPECIAL REVIEW AND REVISION.—
Not later than 90 days after the date on which
the Task Force makes a request to the Sec-
retary for a special review and revision of the
areas designated as alternative areas for ballast
water discharge, the Secretary, in consultation
with the Under Secretary, the Task Force, the
Administrator, and a representative of any
State that may be affected by the discharge of
ballast water in such an area, shall conduct a
review to revise the designations if necessary.

“(7) PERMISSIBLE DISCHARGE.—

“(A) IN GENERAL.—The discharge of bal-
last water shall be considered to be carried out
in accordance with this paragraph if it is—

“(i) in an alternative area designated
for that purpose under paragraph (6) by
the Secretary; or
“(ii) into a reception facility described in subsection (g)(2).

“(B) LIMITATION ON VOLUME.—The volume of any ballast water discharged under the provisions of this paragraph may not exceed the volume necessary to ensure the safe operation of the vessel.

“(8) PARTIAL COMPLIANCE.—

“(A) IN GENERAL.—The operator of a vessel that is unable to comply fully with the requirements of paragraphs (1) and (3)—

“(i) shall nonetheless conduct ballast water exchange to the maximum extent feasible in compliance with those paragraphs;

“(ii) may conduct a partial ballast water exchange under this paragraph only to the extent that the ballast water in an individual ballast tank can be completely exchanged in accordance with paragraph (1);

“(iii) shall notify the Secretary as soon as practicable thereafter, but no later than 24 hours after making the determina-
tion to conduct ballast water exchange under this paragraph; and

“(iv) shall ensure that the determination, the reasons for the determination, and the notice are recorded in the vessel’s ballast water record book.

“(B) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge under this paragraph, the Secretary shall review the circumstances to determine whether the vessel was unable to comply fully with the requirements of paragraphs (1) and (3). The review under this subparagraph shall be in addition to any other enforcement authority of the Secretary.

“(9) SPECIAL REQUIREMENTS FOR NOBOBS.—

“(A) SALTWATER FLUSHING REQUIREMENT.—Beginning 180 days after the date of the enactment of this paragraph, any vessel operating en route to the United States from outside the exclusive economic zone of the United States that is unable to conduct ballast water exchange as otherwise required under this subsection, other than as provided in paragraph (4) and paragraph (5), shall conduct saltwater
flushing of its empty ballast tanks in an area located at least 200 nautical miles from any point on land in the United States before entering any port in the United States.

“(B) SALTWATERflushingdefined.—
For the purposes of this paragraph, the term ‘saltwater flushing’ means a process that includes—

“(i) the addition to each empty ballast tank of as much ocean water that is safe for the vessel and crew;

“(ii) the mixing of the flush water with residual water and sediment through the motion of the vessel; and

“(iii) the discharge of the mixed water,
in areas greater than 200 nautical miles from the nearest point of land in the United States such that the resultant residual water remaining in the tank has a salinity greater than 30 parts per thousand.

“(10) DESIGNATION OF ENCLOSED AQUATIC ECOSYSTEMS.—

“(A) IN GENERAL.—The Secretary, in consultation with the Under Secretary, the Admin-
istrator, the Task Force, and representatives from affected States designated by the Task Force, shall designate, in addition to the Great Lakes, enclosed aquatic ecosystems in which the potential for movement of organisms by natural and anthropogenic means is not significantly altered by the movement of vessels, including ballast water discharge, to which this section apply.

“(B) DESIGNATION OF REPRESENTED STATES.—The Task Force shall designate the States that may appoint representatives to assist in designating enclosed aquatic ecosystems under subparagraph (A) and the number of representatives that may be appointed for each State. The governor of each designated State shall appoint the representatives for that State.

“(11) VESSELS OPERATING ON THE GREAT LAKES.—No vessel shall be operated in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary’s designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements under this title, including the regulations issued under this title.
“(12) Certain geographically limited routes.—Notwithstanding paragraph (3)(B) of this subsection, the operator of a vessel is not required to comply with the requirements of paragraph (1) if—

“(A) the vessel operates exclusively—

“(i) within Lake Superior, Lake Michigan, Lake Huron, and Lake Erie and the connecting channels;

“(ii) between or among the main group of the Hawaiian Islands; or

“(iii) within any enclosed aquatic ecosystem designated under paragraph (10); and

“(B) the vessel carries only ballast water and sediment from the area identified under subparagraph (A).

“(13) Marine sanctuaries and other prohibited areas.—A vessel may not conduct ballast water exchange or discharge unexchanged ballast water under this subsection within a marine sanctuary designated under title III of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or in any other waters designated by the Secretary after
consultation with the Under Secretary and the Administrator.

“(14) Study and requirement of alternatives for the Great Lakes.—

“(A) Study.—Not later than January 1, 2011, the Secretary, in consultation with the Administrator and the Under Secretary, shall conduct a study to evaluate alternatives to on-board treatment, including but not limited to cargo transfer and shore-based treatment, for vessels entering the Great Lakes from beyond the exclusive economic zone.

“(B) Regulations.—The Secretary may promulgate regulations based on the results of the study to require alternatives that would assist in preventing the introduction of aquatic invasive species from vessels.

“(15) Public notice of actions.—

“(A) Notice requirement.—The Secretary shall provide public notice of each of the following:

“(i) Exemptions applied under paragraph (4), including the nature and circumstances surrounding the application of the exemption.
“(ii) Waivers granted under paragraph (5), including the nature and circumstances surrounding the waiver.

“(iii) Instances of partial compliance under paragraph (8), including the nature and circumstances surrounding the instance of partial compliance.

“(iv) Determinations made by the Secretary after reviews conducted pursuant to paragraphs (4) and (8).

“(B) MANNER OF NOTICE.—The Secretary shall publish notice under this paragraph—

“(i) in the Federal Register and on relevant web sites maintained by the Secretary;

“(ii) once every 2 weeks; and

“(iii) with respect to all of the matters referred to in subparagraph (A) for the 2-week period preceding publication of the notice.

“(C) DATABASE OF NOTICES.—The Secretary shall make all notices published under subparagraph (B)(i) available, at all times, to the public on relevant World Wide Web sites maintained by the Secretary.
“(16) Regulations deadline.—The Secretary shall issue a final rule for regulations required by this subsection within 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006.

“(g) Ballast Water Treatment Requirements.—

“(1) Performance standards.—A vessel to which this section applies shall conduct ballast water treatment in accordance with the requirements of this subsection before discharging ballast water so that the ballast water discharged will contain—

“(A) less than 1 living organism per 10 cubic meters that is 50 or more micrometers in minimum dimension;

“(B) less than 1 living organism per 10 milliliters that is less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

“(C) concentrations of indicator microbes that are less than—

“(i) 1 colony-forming unit of toxicogenic Vibrio cholera (serotypes O1 and O139) per 100 milliliters, or less than
1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

“(ii) 126 colony-forming units of escherichia coli per 100 milliliters; and

“(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

“(D) concentrations of such additional indicator microbes as may be specified in regulations promulgated by the Secretary, after consultation with the Administrator, that are less than the amount specified in those regulations.

“(2) RECEPTION FACILITY EXCEPTION.—

“(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that discharges ballast water into—

“(i) a land-based facility for the reception of ballast water that meets standards prescribed by the Administrator; or

“(ii) a water-based facility for the reception of ballast water that meets standards prescribed by the Secretary.

“(B) PROMULGATION OF STANDARDS.—Within 1 year after the date of enactment of the paragraph—
“(i) the Administrator shall promulgate standards for—

“(I) the reception of ballast water in land-based facilities; and

“(II) the disposal or treatment of ballast water discharged into a land-based or water-based reception facility in a way that does not impair or damage the environment, human health, property, or resources; and

“(ii) the Secretary shall promulgate standards for the reception of ballast water in water-based facilities.

“(3) IMPLEMENTATION SCHEDULE.—Paragraph (1) applies to vessels in accordance with the following schedule:

“(A) FIRST PHASE.—Beginning January 1, 2009, for vessels constructed on or after that date with a ballast water capacity of less than 5,000 cubic meters.

“(B) SECOND PHASE.—Beginning January 1, 2012, for vessels constructed on or after that date with a ballast water capacity of 5,000 cubic meters or more.
“(C) THIRD PHASE.—Beginning January 1, 2014, for vessels constructed before January 1, 2009, with a ballast water capacity of 1,500 cubic meters or more but not more than 5,000 cubic meters.

“(D) FOURTH PHASE.—Beginning January 1, 2016, for vessels constructed—

“(i) before January 1, 2009, with a ballast water capacity of less than 1,500 cubic meters or 5,000 cubic meters or more; or

“(ii) on or after January 1, 2009, and before January 1, 2012, with a ballast water capacity of 5,000 cubic meters or more.

“(4) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel may not use a ballast water treatment system to comply with the requirements of this subsection unless the system is approved by the Secretary under paragraph (8) or (10).

“(5) FEASIBILITY REVIEW.—

“(A) IN GENERAL.—Not less than 2 years before the date on which paragraph (1) applies to vessels under each subparagraph of para-
graph (3), or as that date may be extended under this paragraph, the Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force, shall complete a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1) for the vessels to which they apply under the schedule set forth in paragraph (3). In reviewing the technologies the Secretary shall consider—

“(i) the effectiveness of a technology in achieving the standards;

“(ii) feasibility in terms of compatibility with vessel design and operations;

“(iii) safety considerations;

“(iv) whether a technology is determined to have an adverse impact on the environment under the criteria issued under paragraph (11); and

“(v) cost effectiveness.

“(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the review conducted under subparagraph (A), that compliance with the standards set forth in paragraph (1) in accordance with
the schedule set forth in any subparagraph of paragraph (3) is not feasible for any class of vessels, the Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force, shall—

“(i) extend the date on which that subparagraph first applies to vessels for a period of not more than 24 months; and

“(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

“(C) HIGHER STANDARDS; EARLIER IMPLEMENTATION.—

“(i) STANDARDS.—If the Secretary determines that ballast water treatment technology exists that exceeds the performance standards required under this subsection, the Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force, shall, for any class of vessels, revise the performance standards to incorporate the higher performance standards.

“(ii) IMPLEMENTATION.—If the Secretary determines that technology that
achieves the applicable performance standards required under this subsection can be implemented earlier than required by this subsection, the Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force, shall, for any class of vessels, accelerate the implementation schedule under paragraph (3). If the Secretary accelerates the implementation schedule pursuant to this clause, the Secretary shall provide notice at least 24 months before such accelerated implementation goes into effect.

“(iii) Determinations Not Mutually Exclusive.—The Secretary shall take action under both clause (i) and clause (ii) if the Secretary makes determinations under both clauses.

“(D) Interim Standards.—If the Secretary determines that appropriate technologies are not available to meet the standards set forth in paragraph (1), then the International Maritime Organization standard for treatment in the Ballast Water Management Convention shall apply instead of the standards set forth in
paragraph (1), in accordance with the implement-
mentation schedule established under paragraph
(3), until the standards set forth in paragraph
(1) take effect pursuant to subparagraph (B).

“(6) REVIEW OF BALLAST WATER TREATMENT
STANDARDS.—At the end of the 3-year period begin-
ning on the date of the enactment of this paragraph
and every 3 years thereafter, the Secretary, in con-
sultation with the Administrator and based on rec-
ommendations by the Task Force and information
collected and analyzed under this title, and in ac-
cordance with criteria developed by the Task Force
under paragraph (15), shall—

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

“(B) assess the effectiveness of regulations
promulgated under this section in reducing the
introduction and spread of aquatic invasive spe-
cies by vessels;

“(C) assess the approval process under
paragraph (8); and

“(D) as necessary, revise regulations pro-
mulgated under this section and promulgate
new regulations.
“(7) Special review and revision.—Not later than 90 days after the date on which the Task Force makes a request to the Secretary for a special review and revision of the regulations promulgated under this section, the Secretary, in consultation with the Administrator, shall conduct a special review in accordance with paragraph (6), including the revision of regulations or the promulgation of new regulations as necessary.

“(8) Approval of ballast water treatment systems.—

“(A) Regulations.—The Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force and by not later than 1 year after the date of the enactment of this paragraph, shall issue regulations establishing an approval process for ballast water treatment systems. The regulations shall include standards for the certification of treatment or practices and an ongoing enforcement of the use of treatments and practices.

“(B) Qualified type-approval process.—The approval of ballast water treatment systems shall be based on a qualified type-approval process that is capable of estimating the
extent to which treated ballast water discharge
is to comply with the standards of paragraph
(1).

“(C) CONSIDERATION OF RESTRICTIONS.—
The approval of ballast water treatment sys-
tems shall take into account restrictions relat-
ing to—

“(i) biological, chemical, or physical
conditions of water taken into ballast
tanks; and

“(ii) conditions encountered during a
ship’s voyage.

“(D) ENVIRONMENTAL SOUNDESS AND
SAFETY.—The approval process for ballast
water treatment systems shall be capable of de-
termining the extent to which a ballast water
treatment method is—

“(i) environmentally sound based on
criteria promulgated by the Administrator
pursuant to paragraph (11); and

“(ii) safe for vessel and crew.

“(E) ESTIMATION OF USEFUL LIFE.—The
approval process for ballast water treatment
systems may be used to estimate the useful life
of the ballast water treatment system, as deter-
mined on the basis of voyage patterns and normal use conditions.

“(F) SHIP-BOARDING TESTING.—The approval process of ballast water treatment systems shall include a ship-boarding testing component, and may include a shore-based testing component.

“(G) MONITORING.—The approval process for ballast water treatment systems shall provide for appropriate monitoring.

“(H) APPLICATION FORM AND INFORMATION.—The Secretary shall approve an application for certification of ballast water treatment system only if the application is in such form and contains such information as the Secretary requires.

“(9) MONITORING AND EFFECTIVENESS; REVOCATION OF CERTIFICATION.—Based on the results of appropriate monitoring of ballast water treatment systems, the Secretary shall revoke the certification of a ballast water treatment system if it is found that ballast water treated with the system does not meet the standards of paragraph (1) or paragraph (11).
“(10) Approval of experimental ballast water treatment technologies.—

“(A) In general.—If a vessel participates in a program approved by the Secretary to test and evaluate promising ballast water treatment technologies that are likely to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary shall certify a vessel to allow the use of that technology and such vessel shall be deemed to be in compliance with the requirements of paragraph (1) during the period of certification.

“(B) Guidelines by Secretary.—The Secretary, in consultation with the Administrator, the Under Secretary, and the Task Force, within 1 year after the date of the enactment of this paragraph shall issue guidelines for the approval of experimental ballast water treatment technologies that are likely to meet the standards of paragraph (1).

“(C) Guidelines by Administrator.—The Administrator, in consultation with the
Secretary, the Under Secretary, and the Task
Force, within 1 year after the date of the enact-
ment of this paragraph shall issue guidelines
for the approval of ballast water treatment
technologies under this paragraph pursuant to
the environmental soundness criteria under
paragraph (11).

“(D) CRITERIA BY ADMINISTRATOR.—The
Administrator shall include in criteria promul-
gated under paragraph (11) specific criteria to
grant environmental soundness exceptions such
that, in an emergency situation, to achieve re-
ductions in significant and acute risk of trans-
fers of invasive species by vessels, the Secretary
and the Administrator may jointly determine to
make an exception to criteria of paragraph
(11). To be eligible for an exception, approval
for an experimental technology under this para-
graph shall be subject to all other provisions of
this paragraph.

“(E) CERTIFICATION BY ADMINIS-
TRATOR.—Not later than 90 days after receiv-
ing an application, the Administrator shall re-
view the application for compliance with envi-
ronmental soundness criteria under paragraph
(11) and certify the ballast water treatment system covered by the application as meeting environmental requirements if it indeed meets those criteria. The Administrator’s determination should be based on independent and peer-reviewed information.

“(F) APPROVAL OR DISAPPROVAL BY SECRETARY.—Not later than 180 days after receiving an application, the Secretary shall—

“(i) determine if the ballast water treatment system covered by the application meets the requirements of this subsection;

“(ii) approve or disapprove the application; and

“(iii) provide the applicant written notice of the approval or disapproval.

“(G) APPEAL PROCESS.—As part of the guidelines issued under this paragraph, the Secretary shall establish a process for applicants receiving a notice of disapproval to appeal the Secretary’s decision.

“(H) CERTIFICATION BY ADMINISTRATOR REQUIRED.—The Secretary shall approve and certify a ballast water treatment system only if
the Administrator certifies the system as meeting the criteria of paragraph (11).

“(I) Conditions of use of approved systems.—As determined by the Secretary in consultation with the Administrator and the Under Secretary, approved ballast water treatment systems shall be used only for voyage patterns, durations, or any other characteristic that may affect the effectiveness or environmental soundness of the ballast water treatment system covered by the application.

“(J) Determination of vessels to use approved system.—Approved ballast water treatment systems may be applicable to a specific vessel or group of vessels as determined by the Secretary.

“(K) Variety and type of participating vessels.—The Secretary shall seek to ensure that a wide variety of vessel types and voyages are included in the program, but may not grant a delay under this paragraph to more than 5 percent of the vessels to which this subsection applies.

“(L) Exemptions.—A vessel operating en route to the United States from outside the ex-
exclusive economic zone of the United States that declares to have no ballast on board or is claimed to be carrying only umpumpable quantities of ballast are exempt from the requirements of subparagraph (K).

“(M) TERM OF CERTIFICATION.—The certification of an approved ballast water treatment system shall be valid only for the lesser of the following:

“(i) The expected life of the ballast water treatment system.

“(ii) 10 years.

“(iii) Until such time as the Secretary or Administrator (as appropriate) determines that, based on available information, the ballast water treatment system fails to meet the requirements of this subsection.

“(N) TERMINATION OF CERTIFICATION.—The Secretary may terminate the certification of a vessel under this subsection if participation of the vessel in the program is terminated without the consent of the Secretary.

“(O) SAMPLING AND REPORTING INFORMATION.—Upon receiving approval for a treatment under this paragraph, the owner or oper-
ator of a vessel shall collect and report such in-
formation requested by the Secretary regarding
the operational and biological effectiveness of
the treatment through sampling of the intake
and discharge ballast.

“(P) ANNUAL EVALUATION; REVOCATION
OF CERTIFICATION.—The Secretary, in con-
sultation with the Administrator and the Under
Secretary, shall establish an annual evaluation
process to determine if approved experimental
technology is effective or causing harm to the
environment. If the technology is not effective
or causes harm to the environment, then the
Secretary shall revoke the certification.

“(Q) FEES.—The Secretary, with concur-
rence of the Administrator, may establish fees
for processing the application.

“(11) ENVIRONMENTAL SOUNDNESS CRITERIA
FOR BALLAST WATER TREATMENT SYSTEMS.—

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

“(i) to ensure environmental sound-
ness of ballast water treatment systems;

and
“(ii) to grant environmental soundness exceptions under subparagraph (B).

“(B) Exceptions.—In reviewing applications under paragraph (10) in an emergency situation to achieve reductions in significant and acute risk of transfers of invasive species by vessels, the Secretary and the Administrator may jointly determine to make an exception to criteria described in subparagraph (A)(i).

“(12) Incentives for use of ballast water treatment systems.—The Secretary, the Secretary of Transportation, and the Administrator shall assist owners or operators of vessels that seek to obtain experimental approval for installation of ballast water treatment systems, including through providing guidance on—

“(A) a sampling protocol and test program for cost effective treatment evaluation;

“(B) sources of sampling equipment and field biological expertise; and

“(C) examples of shipboard evaluation studies.

“(13) Selection of technologies and practices.—In selecting technologies and practices for shipboard demonstration under section 1104(b),
the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices that have received or are in the process of receiving certification under paragraph (10).

“(14) Annual summaries on performance of ballast water treatment technologies.—

“(A) Annual summaries.—The Secretary shall annually summarize, and make available to interested persons, all available information on the performance of technologies proposed for ballast water treatment to facilitate the application process for experimental approval for ballast water treatment.

“(B) Publication of other information.—The Administrator, in consultation with the Invasive Species Council, shall publish not later than 1 year after the date of the enactment of this paragraph and update annually—

“(i) a list of environmentally sound treatment methods that meet the requirements of this section;

“(ii) accompanying research that supports the environmental soundness of each approved treatment method; and
“(iii) explicit guidelines under which each treatment method can be used in an environmentally sound manner.

“(C) REPORTS.—The Invasive Species Council and the Task Force shall include the published information in the reports submitted under section 1201(f)(2)(B).

“(15) CRITERIA FOR ADEQUACY AND EFFECTIVENESS.—Not later than 1 year after the date of the enactment of this paragraph and every 3 years thereafter, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of all regulations promulgated under this section.

“(16) HIGH-RISK VESSELS.—

“(A) VESSEL LIST.—Within 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Secretary shall initiate a list, in consultation with States, of vessels that, due to factors such as the origin of their voyages, the frequency of their voyages, the volume of ballast water they carry, the biological makeup of the ballast water, and the fact that they frequently discharge unexchanged or improperly exchanged
ballast water pursuant to an exception under subsection (f), pose a relatively high risk of introducing aquatic invasive species into the waters of those States.

“(B) INCENTIVE PROGRAMS.—The Secretary shall—

“(i) give priority to vessels on the list for participation in pilot programs described in paragraph (10); and

“(ii) encourage Federal and State technology development programs or other incentives (whether positive or negative) to give priority to such vessels in order to encourage the adoption of ballast water treatment technology by those vessels consistent with the requirements of this section on an expedited basis.

“(17) QUALIFIED EXEMPTIONS.—

“(A) IN GENERAL.—A vessel operating entirely on the Great Lakes or in enclosed aquatic ecosystems designated under subsection (f)(10) shall be granted an exemption from the requirements of this subsection if the vessel meets requirements prescribed by the Secretary.
“(B) GUIDELINES ESTABLISHING PROCESS.—The Secretary, in consultation with the Administrator and the Task Force, shall issue guidelines establishing a process for certifying vessels as exempt under this paragraph. The guidelines shall ensure that ships receiving an exemption carry only ballast water and sediment from the enclosed aquatic ecosystem in which the vessel operates.

“(C) LIMITATION ON EXEMPTIONS.—The Secretary shall not issue an exemption under this paragraph if the exemption would increase the risk of the invasion and spread of aquatic invasive species relative to a situation where an applicable vessel complies with the requirements of this subsection.

“(D) REVIEW OF EXEMPTIONS.—

“(i) REQUIRED REVIEW.—The Secretary shall review any exemption granted under this paragraph at least as often as every 2 years, and shall approve or revoke the exemption based on the review and the requirements of this paragraph.
“(ii) Discretionary review.—The Secretary may review an exemption at any time.

“(iii) Review upon request.—The Administrator or the Task Force may request a review of an exemption at any time. Upon receipt of such a request, the Secretary shall complete a review within 14 days.

“(h) Warnings concerning ballast water uptake.—

“(1) In general.—The Secretary shall notify vessel owners and operators of any area in waters subject to the jurisdiction of the United States in which vessels should not uptake ballast water due to known conditions.

“(2) Contents.—The notice shall include—

“(A) the coordinates of the area; and

“(B) if possible, the location of alternative areas for the uptake of ballast water.

“(i) Sediment management.—

“(1) In general.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water except—
“(A) in accordance with this subsection and the aquatic invasive species plan required under subsection (c); and

“(B) more than 200 nautical miles from the nearest point of land in the United States or into a reception facility that meets the requirements of paragraph (3).

“(2) Design requirements.—

“(A) New vessels.—After December 31, 2008, it shall be unlawful to construct a vessel in the United States to which this section applies unless that vessel is designed and constructed, in accordance with regulations prescribed under subparagraph (C), in a manner that—

“(i) minimizes the uptake and entrapment of sediment;

“(ii) facilitates removal of sediment; and

“(iii) provides for safe access for sediment removal and sampling.

“(B) Existing vessels.—Every vessel to which this section applies that was constructed before January 1, 2009, shall be modified before January 1, 2009, to the extent practicable,
to achieve the objectives described in clauses (i), (ii), and (iii) of subparagraph (A).

“(C) REGULATIONS.—The Secretary shall promulgate regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guidance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the aquatic invasive species plan.

“(3) SEDIMENT RECEPTION FACILITIES.—

“(A) STANDARDS.—The Administrator shall promulgate regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area. The Administrator may not prescribe standards under this subparagraph that are less stringent than any otherwise applicable Federal, State, or local law requirements.

“(B) DESIGNATION.—The Administrator shall designate facilities for the reception of vessel sediment that meet the requirements of the
regulations promulgated under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

“(j) EXAMINATIONS AND CERTIFICATIONS.—

“(1) INITIAL EXAMINATION.—

“(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

“(i) there is an aquatic invasive species plan for the vessel that meets the requirements of this section; and

“(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations promulgated hereunder is installed and functioning properly.

“(B) NEW VESSELS.—For vessels constructed on or after January 1, 2009, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

“(C) EXISTING VESSELS.—For vessels constructed before January 1, 2009, the Secretary shall—
“(i) conduct the examination required by subparagraph (A) before the date on which subsection (g)(1) applies to the vessel according to the schedule in subsection (g)(3); and

“(ii) inspect the vessel’s ballast water record book required by subsection (d).

“(D) FOREIGN VESSELS.—In the case of a foreign vessel (as defined in section 2101(12) of title 46, United States Code), the Secretary shall perform the examination required by this paragraph the first time the vessel enters a United States port.

“(2) SUBSEQUENT EXAMINATIONS.—The Secretary shall examine vessels no less frequently than once each year to ensure vessel compliance with the requirements of this section.

“(3) INSPECTION AUTHORITY.—The Secretary may carry out such inspections of any vessel to which this section applies at any time, including the taking of ballast water samples, to ensure the vessel’s compliance with this Act.

“(4) REQUIRED CERTIFICATE.—If, on the basis of an initial examination under paragraph (1) the Secretary finds that a vessel complies with the re-
requirements of this section and the regulations promulgated hereunder, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

“(5) Notification of violations.—If the Secretary finds, on the basis of an examination under paragraph (1) or paragraph (2), sampling under paragraph (3), or any other information, that a vessel is being operated in violation of the requirements of this section and the regulations promulgated hereunder, the Secretary shall—

“(A) notify—

“(i) the master of the vessel; and

“(ii) the captain of the port at the vessel’s next port of call; and

“(B) take such other action as may be appropriate.

“(6) Compliance monitoring.—The Secretary shall by regulation establish sampling procedures to monitor compliance with the requirements of this section.
“(7) **Education and technical assistance programs.**—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the requirements issued under this section.

“(k) **Detention of vessels.**—

“(1) **In general.**—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

“(A) the vessel is a vessel to which this section applies; and

“(B) the vessel does not comply with the requirements of this section or of the regulations issued hereunder or is being operated in violation of such requirements.

“(2) **Clearance.**—

“(A) **In general.**—A vessel detained under paragraph (1) may obtain clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) only if the violation for which it was detained has been corrected.

“(B) **Withdrawal.**—If the Secretary finds that a vessel detained under paragraph
(1) has received a clearance under section 4197 of the Revised Statutes (46 U.S.C. App. 91) before it was detained under paragraph (1), the Secretary shall withdraw, withhold, or revoke the clearance.

“(l) SANCTIONS.—

“(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under this section shall be liable for a civil penalty in an amount not to exceed $50,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

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

“(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (k)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under this section.
“(4) Exception to sanctions.—This subsection does not apply to a failure to exchange ballast water if—

“(A) the master of a vessel discharges ballast water in accordance with subsection (f)(4); and

“(B) the Secretary determines that the requirements of subsection (f)(4) are met.

“(m) Enforcement.—

“(1) Administrative actions.—If the Secretary finds, after notice and an opportunity for a hearing, that a person has violated any provision of this section or any regulation promulgated hereunder, the Secretary may assess a civil penalty for that violation.

“(2) Civil actions.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section, or any regulation promulgated hereunder. Any court before which such an action is brought may award appropriate relief, including temporary or permanent injunctions and civil penalties.

“(n) Coordination with other agencies.—The Secretary is encouraged to use, with consent of the head
of the Federal or State agency concerned, the expertise, facilities, and personnel of appropriate Federal and State agencies and organizations that have routine contact with vessels, as determined by the Secretary.

“(o) Consultation With Canada, Mexico, and Other Foreign Governments.—In developing the guidelines issued and regulations promulgated under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico, and any other government of a foreign country that the Secretary, after consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic invasive species.

“(p) International Cooperation.—The Secretary, in cooperation with the Under Secretary, the Secretary of State, the Administrator, the heads of other relevant Federal agencies, the International Maritime Organization of the United Nations, and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic invasive species, particularly
by seeking bilateral and multilateral agreements with Can-
ada (through the International Joint Commission), Mex-
ico, and other nations in the Wider Caribbean (as defined
in the Convention for the Protection and Development of
the Marine Environment of the Wider Caribbean, Cartagena Convention).

“(q) **NON-DISCRIMINATION.**—The Secretary shall en-
sure that vessels registered outside of the United States
do not receive more favorable treatment than vessels reg-
istered in the United States when the Secretary performs
studies, reviews compliance, determines effectiveness, est-
tablishes requirements, or performs any other responsibil-
ities under this Act.

“(r) **SUPPORT FOR FEDERAL BALLAST WATER DEM-
onstration Project.**—In addition to amounts other-
wise available to the Maritime Administration, the Na-
tional Oceanographic and Atmospheric Administration,
and the United States Fish and Wildlife Service for the
Federal Ballast Water Demonstration Project, the Sec-
retary shall provide support for the conduct and expansion
of the project, including grants for research and develop-
ment of innovative technologies for the management,
treatment, and disposal of ballast water and sediment, for
ballast water exchange, and for other vessel vectors of
aquatic invasive species such as hull-fouling. There are au-
authorized to be appropriated to the Secretary such sums
as may be necessary for each of fiscal years 2007 through
2011 to carry out this subsection.

“(s) Consultation With Task Force.—The Sec-
retary shall consult with the Task Force in carrying out
this section.

“(t) Preemption.—

“(1) In general.—Except as provided in para-
graph (2) but notwithstanding any other provision of
law, the provisions of subsections (f) and (g) super-
sede any provision of State or local law that is in-
consistent with the requirements of those sub-
sections or that conflicts with the requirements of
those subsections. The imposition, by State or local
law, of greater penalties or fees for acts or omissions
that are violations of such law and also violations of
this Act shall not be considered to be inconsistent
with, or to conflict with, the requirements of those
 subsections. Nothing in the preceding sentence limits
the scope of State or local law provisions that are
not to be considered to be inconsistent with, or to
conflict with, the requirements of those subsections

“(2) Reception Facilities.—The standards
prescribed by the Administrator or the Secretary
under subsection (g)(2) do not supersede any more
stringent standard under any otherwise applicable Federal, State, or local law.

“(3) APPLICATION WITH OTHER STATUTES.—
This section provides the Federal authority for addressing aquatic invasive species in ballast water or sediment. If there is a conflict between any otherwise applicable provision of Federal law and the requirements of this section, the provisions of this section shall control to the extent that such requirements relate to vessels with respect to aquatic invasive species in ballast water or sediment.

“(u) REGULATIONS.—

“(1) IN GENERAL.—The Secretary, after consultation with the Administrator, shall issue such regulations as may be necessary initially to carry out this section within 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006.

“(2) JUDICIAL REVIEW.—

“(A) 120-DAY RULE.—An interested person may bring an action for review of a final regulation promulgated under this section by the Secretary of the department in which the Coast Guard is operating, or by the Administrator, in the United States Circuit Court of
Appeals for the Federal judicial district in which that person resides or transacts business which is directly affected by that regulation only if that action is filed within—

“(i) 120 days after the date on which the regulation is promulgated; or

“(ii) more than 120 days after that date if the action is based on grounds that arose after that 120-day period.

“(B) Review in enforcement proceedings.—A regulation for which review could have been obtained under subparagraph (A) of this paragraph is not subject to judicial review in any civil or criminal proceeding for enforcement.”.

(b) Definitions.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(1) by redesignating—

(A) paragraph (1) and (2) as paragraphs (2) and (3), respectively;

(B) paragraph (3) as paragraph (5);

(C) paragraphs (4), (5), (6), (7), (8), (9), and (10) as paragraphs (9), (10), (11), (12), (13), (14), and (15), respectively;
(D) paragraphs (11) and (12) as paragraphs (18) and (19), respectively;

(E) paragraphs (13), (14), and (15) as paragraphs (21), (22), and (23), respectively;

(F) paragraph (16) as paragraph (27); and

(G) paragraph (17) as paragraph (24), and moving it so as to appear immediately after paragraph (23), as redesignated;

(2) by striking—

(A) “nuisance” in paragraph (2), as redesignated, and inserting “invasive”;

(B) “nuisance” in paragraph (11), as redesignated, and inserting “invasive”;

(C) “Nuisance” in paragraph (21), as redesignated, and inserting “Invasive”; and

(D) “Canandian” in paragraph (12), as redesignated, and inserting “Canadian”;

(3) by inserting before paragraph (2) the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency;”;

(4) by striking paragraph (5), as redesignated, and inserting after paragraph (3), as redesignated, the following:
“(4) ‘ballast tank’ means any tank, space, or compartment on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

“(5) ‘ballast water’—

“(A) except as provided in subparagraph (B), means—

“(i) water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; and

“(ii) any water placed into a ballast tank during cleaning, maintenance, or other operations; and

“(B) does not include water that—

“(i) at the time of discharge, does not contain aquatic invasive species; and

“(ii) was taken on board a vessel and used for a purpose described in subparagraph (A);

“(6) ‘ballast water capacity’ means the total volumetric capacity of all ballast tanks on a vessel;

“(7) ‘ballast water management’ means mechanical, physical, chemical, and biological processes
used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediment;

“(8) ‘constructed’ means a state of construction of a vessel at which—

“(A) the keel is laid;

“(B) construction identifiable with the specific vessel begins;

“(C) assembly of the vessel has begun comprising at least 50 tons or 1 percent of the estimated mass of all structural material of the vessel, whichever is less; or

“(D) the vessel undergoes a major conversion;”;

(5) by inserting after paragraph (15), as redesignated, the following:

“(16) ‘Invasive Species Council’ means the interagency council established by section 3 of Executive Order No. 13112 (42 U.S.C. 4321 note);

“(17) ‘major conversion’ means a conversion of a vessel, that—

“(A) changes its ballast water carrying capacity by at least 15 percent;

“(B) changes the vessel class;
“(C) is projected to prolong the vessel’s life by at least 10 years (as determined by the Secretary); or

“(D) results in modifications to the vessel’s ballast water system, except—

“(i) component replacement-in-kind;

or

“(ii) conversion of a vessel to meet the requirements of section 1101(f);”;

(6) by inserting after paragraph (19), as redesignated, the following:

“(20) ‘sediment’ means matter that has settled out of ballast water within a vessel;”;

(7) by inserting after paragraph (24), as redesignated, the following:

“(25) ‘United States port’ means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including a port located in Puerto Rico, Guam, the Northern Marianas, or the United States Virgin Islands;

“(26) ‘vessel of the Armed Forces’ means—

“(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and
“(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary of the department in which the Coast Guard is operating as a vessel equivalent to a vessel described in subparagraph (A);”;

(8) by striking the period at the end of paragraph (24), as redesignated, and inserting a semicolon; and

(9) by inserting after paragraph (27), as redesignated, the following:

“(28) ‘waters subject to the jurisdiction of the United States’ means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.”.

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

SEC. 201. COAST GUARD REPORTS AND STANDARDS ON OTHER SOURCES OF VESSEL-BORNE INVASIVE SPECIES.

(a) Report on Hull-Fouling and Other Vessel Sources.—Within 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall
transmit a report to the Congress on vessel-related vectors of harmful aquatic organisms and pathogens other than ballast water and sediment, including vessel hulls and equipment, and from vessels equipped with ballast tanks that carry no ballast water on board.

(b) Best Practices.—

(1) Standards and procedures.—As soon as practicable, the Coast Guard shall develop and implement best practices standards and procedures designed to reduce the introduction of invasive species into and within the United States from vessels and establish a timeframe for implementation of those standards and procedures by vessels, in addition to the mandatory requirements set forth in section 1101 for ballast water.

(2) Included standards.—Standards and procedures implemented under paragraph (1) should include designation of geographical locations for up-take and discharge of untreated ballast water, as well as standards and procedures for other vessel vectors of aquatic invasive species.

(3) Report on standards and procedures.—The Commandant of the Coast Guard shall transmit a report to the Congress describing the standards and procedures developed and the imple-
mentation timeframe, together with any rec-
ommendations, including legislative recommenda-
tions if appropriate, the Commandant deems appro-
priate.

(4) REGULATIONS.—The Secretary may pro-
mulgate regulations to incorporate and enforce
standards and procedures developed under this sub-
section.

e) TRANSITING VESSELS.—Within 180 days after
the date of enactment of this Act, the Commandant of
the Coast Guard shall transmit a report to the Congress
containing—

(1) an assessment of the magnitude and poten-
tial adverse impacts of ballast water operations from
foreign vessels designed, adapted, or constructed to
carry ballast water that are transiting waters subject
to the jurisdiction of the United States; and

(2) recommendations, including legislative rec-
ommendations if appropriate, of options for address-
ing ballast water operations of those vessels.

SEC. 202. PRIORITY PATHWAY MANAGEMENT PROGRAM.

Subtitle C of title I of the Nonindigenous Aquatic
4721 et seq.) is amended by adding at the end the fol-
lowing:
“SEC. 1210. PRIORITY PATHWAY MANAGEMENT PROGRAM.

“(a) Identification of High Priority Pathways.—Not later than 2 years after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, and every 3 years thereafter, the Task Force, in coordination with the Invasive Species Council and in consultation with representatives of States, industry, and other interested parties, shall, based on pathway surveys and other available research relating to the rates of introductions in waters of the United States—

“(1) identify those pathways, other than ballast water and sediment, that pose the highest risk for introductions of invasive species, both nationally and on a region-by-region basis unless further managed;

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

“(3) include in the report to the Congress required under section 1201(f)(2)(B) a description of the identifications, strategies, and recommendations; and

“(4) identify aquatic invasive species not yet introduced into waters of the United States that are likely to be introduced into waters of the United States unless preventative measures are taken.

“(b) Management of High Priority Pathways.—Not later than 3 years after the date of enactment
of the Prevention of Aquatic Invasive Species Act of 2006,
the Task Force or agencies of jurisdiction shall, to the
maximum extent practicable, implement the strategies de-
scribed in subsection (a)(2).”.

SEC. 203. IMPORTATION OF LIVE AQUATIC ORGANISMS.
Subtitle B of the Nonindigenous Aquatic Nuisance
seq.) is amended by adding at the end the following:

“SEC. 1105. IMPORTATION OF LIVE AQUATIC ORGANISMS.
“(a) REVIEW OF IMPORTED AQUATIC ORGANISMS.—
Not later than 2 years after date of the enactment of the
Prevention of Aquatic Invasive Species Act of 2006, the
Invasive Species Council, in consultation with the Task
Force and the regional panels convened under section
1203, States, relevant Federal agencies, and affected in-
dustries, shall complete a review of the importation of live
aquatic species into the United States.
“(b) PURPOSE OF REVIEW.—The review under sub-
section (a) shall—
“(1) identify live aquatic species imported into
the United States that pose a risk to waters of the
United States;
“(2) consider the likelihood of the spread of live
aquatic species imported into the United States by

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human or natural means, both nationally and on a
region-by-region basis;

“(3) consider species, including pathogens,
parasites, and free-living organisms, that may be
transported in association with live aquatic organ-
isms imported into the United States;

“(4) designate species imported into the United
States with high or moderate probability of spreading if introduced into the waters of the United
States;

“(5) designate species with respect to which
there is insufficient information to determine the
level probability of spreading if introduced into the
waters of the United States; and

“(6) include recommendations to prevent the
spread of live aquatic organisms imported into the
United States throughout the waters of the United
States.

“(c) GUIDELINES.—Not later than 42 months after
the date of the enactment of the Prevention of Aquatic
Invasive Species Act of 2006, the Invasive Species Council
shall issue guidelines for Federal agencies and States re-
ponsible for screening live aquatic organisms imported
into the United States to prevent the introduction and
spread of species identified in the review under subsection (a).

“(d) IMPLEMENTATION OF GUIDELINES.—Not later than 4 years after the date of the enactment of the Prevention of Aquatic Invasive Species Act of 2006, the head of each Federal agency identified in the guidelines issued under subsection (e) shall implement the guidelines to the maximum extent possible.

“(e) COORDINATION WITH STATES.—The Invasive Species Council and the heads of Federal agencies identified in the guidelines issued under with subsection (e) shall work cooperatively with States to prevent the introduction into waters of the United States of live aquatic organisms imported into the United States.”.

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

SEC. 301. EARLY DETECTION.

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

“SEC. 1106. EARLY DETECTION AND MONITORING.

“(a) EARLY DETECTION.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Prevention of
Aquatic Invasive Species Act of 2006, the Task
Force, in consultation with the Invasive Species
Council, shall develop and promulgate a set of sam-
pling protocols, a geographic plan, and budget to
support a national system of ecological surveys to
rapidly detect recently established aquatic invasive
species in waters of the United States.

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

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

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

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

“(D) consider the pathways and/or organ-
isms identified under section 1210;

“(E) include a capacity to evaluate the im-
pacts of the importation of live aquatic organ-
isms into the United States; and

“(F) include clear lines of communication
with appropriate Federal, State, and regional
rapid response authorities.
“(3) IMPLEMENTATION.—Not later than 3 years after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Director, the Under Secretary, and the Administrator (in consultation with the Invasive Species Council and in coordination with other agencies) shall implement a national system of ecological surveys that is—

“(A) carried out in cooperation with State, local, port, tribal authorities, and other non-Federal entities (such as colleges and universities); and

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

SEC. 302. RAPID RESPONSE.

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

“SEC. 1211. RAPID RESPONSE.

“(a) STATE RAPID RESPONSE CONTINGENCY STRATEGIES.—

“(1) EMERGENCY FUNDS FOR RAPID RESPONSE.—A State that has in effect a rapid response contingency strategy for invasive species in
the State, including rapid assessment capabilities, that is approved under paragraph (2) shall be eligible to receive emergency funding to remain available until expended to implement rapid response measures for aquatic invasive species under the strategy, subject to renewal, as determined by the Secretary of the Interior and the Secretary in accordance with paragraph (2).

“(2) Approval of rapid response contingency strategies.—The Task Force, in consultation with the Invasive Species Council, shall approve a State rapid response contingency strategy described in paragraph (1) if the strategy—

“(A) identifies all key governmental and nongovernmental partners to be involved in carrying out the strategy;

“(B) clearly designates the authorities and responsibilities of each partner, including the authority of any State or government of an Indian tribe to distribute emergency funds;

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

“(i) distinguishes cases in which rapid response has a likelihood of success and
cases in which rapid response has no likelihood of success;

“(ii) distinguishes rapid response measures from ongoing management and control of established populations of aquatic invasive species; and

“(iii) distinguishes instances in which the rate and probability of organism dispersal is significantly altered by vessel movements;

“(D) includes an early detection strategy that supports or complements the early detection and monitoring system developed under section 1106;

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

“(i) the extent of infestations; and

“(ii) the effectiveness of rapid response efforts;

“(F) to the maximum extent practicable, is integrated into the State aquatic invasive species management plan approved under section 1204;

“(G) to the maximum extent possible, does not use rapid response tools that do not meet
environmental criteria developed under subsection (e)(4);

“(H) includes a public education and outreach component directed at—

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

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

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

“(b) REGIONAL RAPID RESPONSE CONTINGENCY STRATEGIES.—The Task Force, with the concurrence of the Invasive Species Council and in consultation with the regional panels of the Task Force established under section 1203, shall encourage the development of regional rapid response contingency strategies that—

“(1) provide a consistent and coordinated approach to rapid response; and

“(2) are approved by—

“(A) the Secretary; and

“(B) the Governors and Indian tribes having jurisdiction over areas within a region.
“(c) Model Rapid Response Contingency Strategies.—Not later than 18 months after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006—

“(1) the Task Force, with the concurrence of the Invasive Species Council and the regional panels of the Task Force established under section 1203, shall develop—

“(A) a model State rapid response contingency strategy for aquatic invasive species, including rapid assessment capability, that includes, to the maximum extent practicable, the components listed under subparagraphs (A) through (H) of subsection (a)(2); and

“(B) a model regional rapid response contingency strategy for aquatic invasive species; and

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

“(d) Cost Sharing.—
“(1) State rapid response contingency strategies.—The Federal share of the cost of activities carried out under a State rapid response contingency strategy approved under subsection (a) shall be not less than 50 percent.

“(2) Regional rapid response contingency strategies.—The Federal share of the cost of activities carried out under a regional rapid response contingency strategy approved under subsection (b) shall be not less than 75 percent.

“(3) In-kind contributions.—States or regions that receive Federal funds for rapid response activities may provide matching funds in the form of in-kind contributions.

“(e) Federal rapid response teams.—

“(1) Establishment of teams.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Invasive Species Council, in coordination with the Task Force and the heads of appropriate Federal agencies, shall establish a Federal rapid response team for each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.
“(2) Duties of Teams.—Each Federal rapid response team shall, at a minimum—

“(A) implement rapid eradication or control responses for newly detected aquatic invasive species on Federal and tribal land;

“(B) carry out, or assist in carrying out, rapid responses for newly detected aquatic invasive species on non-Federal land at the request of a State, Indian tribe, or group of States or Indian tribes;

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

“(D) provide central sources of information for rapid responders;

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

“(F) in carrying out any rapid response activity with respect to an aquatic noxious weed listed under section 412(f) of the Plant Protection Act (7 U.S.C. 7712(f)), include representatives of the Animal and Plant Health Inspection Service.

“(3) Criteria for Identifying Cases of Rapid Response Warranting Federal Assistance.—Not later than 1 year after the date of en-
actment of the Prevention of Aquatic Invasive Species Act of 2006, the Task Force, with the concur-
rence of the Invasive Species Council, shall develop criteria to identify cases of rapid response war-
ranting Federal assistance under this subsection, in-
cluding criteria relating to, at a minimum—

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

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

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

“(i) biodiversity of native fish and wildlife;

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

“(iii) human health.

“(4) ENVIRONMENTAL CRITERIA.—Not later than 1 year after the date of enactment of the Pre-
vention of Aquatic Invasive Species Act of 2006, the Administrator, in consultation with the Invasive Spe-
cies Council, the Secretary of Transportation, the
Task Force (including regional panels of the Task Force established under section 1203), the Director, and the Director of the National Marine Fisheries Service, shall develop environmental criteria to minimize nontarget environmental impacts of rapid responses carried out pursuant to this section.”.

SEC. 303. DISPERSAL BARRIERS.

Section 1202 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722) is amended—

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

(2) by inserting after subsection (i) the following:

“(j) NATIONAL DISPERSAL BARRIER PROGRAM.—

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

“(A) IN GENERAL.—The Assistant Secretary, with the concurrence of the Administrator, shall complete construction of, operate, and maintain, the Chicago River Ship and Sanitary Canal dispersal barrier project.

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

“(C) CONSTRUCTION.—The completed bar-
rier project shall include additions to the dis-
persal barrier in existence on the date of enact-
ment of the Prevention of Aquatic Invasive Spe-
cies Act of 2006, including—

“(i) backup power;

“(ii) a research vessel launching

 crane;

“(iii) replacement electrodes;

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

“(v) an acoustic monitoring system;

“(vi) an emergency egress system; and

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

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

“(i) IN GENERAL.—Not later than 3

 years after the date of enactment of the

 Prevention of Aquatic Invasive Species Act

 of 2006, the Assistant Secretary, in con-

 sultation with appropriate Federal, State,

 local, and nongovernmental entities, shall
conductor a feasibility study of the full range of options available to prevent the spread of aquatic species through the Chicago River Ship and Sanitary dispersal barrier.

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

“(I) provide recommendations concerning additional and long-term measures necessary to improve the performance of the Chicago River Ship and Sanitary Canal dispersal barrier; and

“(II) examine methods and measures necessary to achieve, to the maximum extent practicable, 100-percent efficacy of the barrier with respect to aquatic invasive species of fish and maximum efficacy of the barrier with respect to other taxa of aquatic invasive species.

“(2) MONITORING PROGRAM.—

“(A) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006,
the Secretary of the Interior shall establish an interbasin and intrabasin monitoring program.

“(B) REQUIRED ELEMENTS.—The monitoring program shall—

“(i) track aquatic invasive species moving through the Chicago River Ship and Sanitary Canal, the Lake Champlain Canal, other interbasin waterways, and major river systems as recommended by regional panels convened under section 1203;

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

“(iii) identify waterways suitable for dispersal barrier demonstration projects, in addition to the waterways at which dispersal barrier demonstration projects were carried out before the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006.

“(C) REPORTS.—The Secretary of the Interior shall issue biennial reports on the findings of the monitoring program.
“(3) Prevention and Mitigation Plans for Army Corps of Engineers Projects.—In developing projects involving interbasin waterways or other hydrologic alternations that could create pathways for aquatic invasive species, the Assistant Secretary shall develop adequate prevention and mitigation plans for controlling the dispersal of aquatic invasive species.

“(4) Technical Assistance.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted under this subsection.

“(5) Reports.—Not later than 3 years after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Assistant Secretary and the Director shall jointly submit to the Congress a report that describes—

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

“(B) a plan to provide for additional dispersal barrier demonstration projects and further research needs.
“(6) ADDITIONAL WATERWAYS.—The Assistant Secretary, with the concurrence of the Administrator, and other relevant Federal agencies, shall—

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

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

SEC. 304. ENVIRONMENTAL SOUNDNESS.

Section 1202 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722) is further amended by inserting after subsection (j) the following:

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

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

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Administrator, in consultation and cooperation with the Secretary, the Invasive Species Council, and the Task Force (including any regional panels of the Task Force) shall promulgate cri-
teria to evaluate the treatment methods described in subparagraph (B) for the purpose of ensuring that the treatment methods pose no significant threat of adverse effect on human health, public safety, or the environment (including air quality and the aquatic environment) that is acute, chronic, cumulative, or collective.

“(B) TREATMENT METHODS.—The treatment methods referred to in subparagraph (A) are all mechanical, physical, chemical, biological, and other treatment methods used in bodies of water of the United States (regardless of whether the bodies of water are navigable and regardless of the origin of the waters), to prevent, treat, or respond to the introduction of aquatic invasive species.

“(C) CONSULTATION.—In carrying out subparagraph (A), the Administrator shall consult with—

“(i) the Secretary of Transportation;

“(ii) the Task Force (including the regional panels of the Task Force established under section 1203);

“(iii) the Director;
“(iv) the Assistant Secretary;

“(v) the Under Secretary;

“(vi) the Director of the National Marine Fisheries Service; and

“(vii) relevant State agencies.

“(2) Publication of Information on Environmentally Sound Treatment Methods.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Administrator, in consultation with the Invasive Species Council, shall publish and update annually—

“(A) a list of environmentally sound treatment methods that may apply to a potential aquatic invasive species response effort;

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

“(C) explicit guidelines under which each treatment method can be used in an environmentally sound manner.

“(3) Reports.—The Invasive Species Council and Task Force shall include the information described in paragraph (2) in the reports submitted under section 1201(f)(2)(B).”.
SEC. 305. INFORMATION, EDUCATION, AND OUTREACH.

Section 1202(h) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722(h)) is amended—

(1) by striking ``(h) EDUCATION.—The Task Force'' and inserting the following:

``(h) INFORMATION, EDUCATION, AND OUTREACH.—

``(1) IN GENERAL.—The Task Force''; and

(2) by adding at the end the following:

``(2) ACTIVITIES.—

``(A) IN GENERAL.—The programs carried out under paragraph (1) shall include the activities described in this paragraph.

``(B) PUBLIC WARNINGS.—Not later than 180 days after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, each Federal officer of an agency that provides Federal funds to States for building or maintaining public access points to waters of the United States shall amend the guidelines of the agency, in consultation with relevant State agencies, to encourage the posting of regionally specific public warnings or other suitable informational and educational materials at the access points regarding—
“(i) the danger of spread of aquatic invasive species through the transport of recreational watercraft; and

“(ii) methods for removing organisms prior to transporting a watercraft.

“(C) CLEANING OF WATERCRAFT AT MARINAS.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Under Secretary and the Director (in cooperation with the Task Force and in consultation with the States, relevant industry groups, and Indian tribes) shall develop an education, outreach, and training program directed toward marinas and marina operators regarding—

“(i) checking watercraft for live organisms;

“(ii) removing live organisms from the watercraft before the watercraft are commercially or recreationally trailered;

“(iii) encouraging regular hull cleaning and maintenance, avoiding in-water hull cleaning; and

“(iv) other activities, as identified by the Secretary.
“(D) PROPER DISPOSAL OF NONINDIGENOUS LIVE AQUATIC ORGANISMS IN TRADE.—

The Task Force shall—

“(i) not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, develop (in consultation with industry and other affected parties) issue guidelines for proper disposal of live nonindigenous aquatic organisms in trade; and

“(ii) use the guidelines in appropriate public information and outreach efforts.

“(E) EXPANSION OF PROGRAM.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Task Force shall expand the information and education program directed at recreational boaters in States from which watercraft are transported westward across the 100th meridian.

“(ii) ACTIVITIES.—In carrying out the program, the Task Force shall—

“(I) survey owners of watercraft transported westward across the
100th meridian to determine the
States of origin of most such owners;

“(II) provide information directly
to watercraft owners concerning the
importance of cleaning watercraft car-
ying live organisms before trans-
porting the watercraft; and

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

“(F) INFORMATION AND EDUCATION PRO-
GRAM BY NATIONAL PARK SERVICE.—The Sec-
retary of the Interior, acting through the Direc-
tor of the National Park Service, shall develop
a program to provide public outreach and other
educational activities to prevent the spread of
aquatic invasive species by recreational
watercraft in units of the National Park System
or through events sponsored by the National
Park Service.

“(3) OUTREACH TO INDUSTRY.—The Task
Force, in conjunction with the Invasive Species
Council, shall carry out activities to inform and pro-
mote voluntary cooperation and regulatory compli-
ance by members of the national and international maritime, horticultural, aquarium, aquaculture, and pet trade industries with screening, monitoring, and control of the transportation of aquatic invasive species.

“(4) PUBLIC ACCESS TO MONITORING INFORMATION.—The Task Force, the Invasive Species Council, and other relevant agencies, shall maintain information on the Internet regarding—

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

“(B) contact locations for joining a national network of monitoring stations;

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

“(D) the list of potential invaders under section 1210(a)(4).”.
TITLE IV—COORDINATION

SEC. 401. PROGRAM COORDINATION.

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

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

(2) in paragraph (3) by striking “of the Environmental Protection Agency”; 

(3) by redesignating paragraph (7) as paragraph (12); and

(4) by inserting after paragraph (6) the following:

“(7) the Director of the United States Geological Survey;

“(8) the Director of the Smithsonian Environmental Research Center;

“(9) the Secretary of State;

“(10) the Secretary of Transportation;

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

(b) COORDINATION WITH INVASIVE SPECIES COUNCIL.—Section 1201(f) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4721(f)) is amended—
(1) by striking “Each Task Force member” and inserting the following:

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

(2) by adding at the end the following:

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

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

“(B) not later than 2 years after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, and every 3 years thereafter, submit to Congress a report that summarizes the status of the conduct of activities authorized by and required under this Act; and

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

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

"(3) RECOMMENDATIONS FOR LISTS.—The Task Force shall annually recommend to Federal agencies of jurisdiction such additions of aquatic invasive species as the Task Force determines to be appropriate for inclusion on—

"(A) any list of species of wildlife under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) (including regulations under such Act); or

"(B) any list of noxious weeds under the Plant Protection Act (7 U.S.C. 7701 et seq.) (including regulations promulgated under that Act contained in part 360 of title 7, Code of Federal Regulations (or any successor regulations)).”.

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

"(d) ANNUAL INTERREGIONAL MEETING.—The Task Force shall annually convene all regional panels established pursuant to this Act for the purpose of information transfer between and among panels, and between the pan-
els and the Task Force, regarding aquatic invasive species management.

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

(e) STATE AQUATIC INVASIVE SPECIES MANAGEMENT PLANS.—Section 1204(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4724(a)) is amended—

(1) by striking paragraph (2)(A) and inserting the following:

“(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic invasive species in accordance with guidelines issued by the Task Force under paragraph (5), including—

“(i) rapid response contingency strategies under section 1211;

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

“(iii) aquatic plant control programs pursuant to other law; and
“(iv) screening of imported live aquatic species in accordance with guidelines issued under section 1105;”;

(2) in paragraph (2)(D) by inserting “include” after “(D)”;

(3) by adding at the end the following:

“(5) GUIDELINES.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Task Force shall publish in the Federal Register guidelines for the development of plans under this subsection, including guidelines for reporting progress in implementing the plans, to encourage consistency in implementation of and reporting under those plans.

“(B) GUIDELINES.—The guidelines published under subparagraph (A) shall include, for the purpose of paragraph (2)(A), guidelines concerning—

“(i) rapid response contingency strategies under section 1211;

“(ii) early detection and monitoring strategies under section 1211(a)(2)(D);
“(iii) aquatic plant control programs;

and

“(iv) the review and revision of re-

quirements of this subsection and the re-

approval process under this subsection.

“(6) RELATIONSHIP TO OTHER PLANS.—

“(A) IN GENERAL.—A plan approved

under paragraph (4) shall be deemed to meet

any State planning requirement of the program

established under section 104 of the River and

Harbor Act of 1958 (33 U.S.C. 610) for a plan

to control noxious aquatic plant growths.

“(B) ENFORCEMENT.—Funds provided to

States for implementation of plans pursuant to

section 1204 may be used by States to enforce

requirements relating to aquatic invasive species

under the Plant Protection Act (7 U.S.C. 7701

et seq.) (including regulations promulgated

under that Act contained in part 360 of title 7,

Code of Federal Regulations (or any successor

regulations)).

“(7) REVIEW AND REVISION.—

“(A) IN GENERAL.—Each State shall peri-

odically review and, as necessary and subject to

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

“(B) UPDATE OF EXISTING PLANS.—A State plan approved under the section before the date of the enactment of the Prevention of Aquatic Invasive Species Act of 2006 shall be revised by the State under guidelines issued by the Director to conform to the guidelines published under paragraph (5), but shall be treated as a plan approved under this subsection for purposes of grants under this section.

“(8) OTHER STATE MANAGEMENT PLANS.—In addition to the management plans required under this subsection, the Director shall encourage each State to develop and implement new, and expand existing, State management plans to improve State actions to prevent and control aquatic invasive species.”.

(f) GRANT PROGRAM.—Section 1204(b)(1) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4724(b)(1)) is amended by striking “subsection (a) for the implementation of those plans.” and inserting the following: “subsection (a) to develop and implement those plans.”.
SEC. 402. INTERNATIONAL COORDINATION.

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

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

“Subtitle E—Administration”; and

(2) by adding at the end the following:

“SEC. 1402. COORDINATION WITH NEIGHBORING COUNTRIES.

“(a) IN GENERAL.—The Task Force, in consultation with the Secretary of State, shall include in the report required by section 1202(m) a description of the means by which international agreements and regulations with countries that share a border with the United States will be implemented and enforced by Federal agencies (including a clarification of the roles and responsibilities of those agencies).

“(b) NEGOTIATIONS.—As soon as practicable after the date of enactment of the Prevention of Aquatic Invasive Species Act of 2006, the Secretary of State may enter into negotiations with—

“(1) Canada to issue a request that the International Joint Commission, by not later than 18 months after the date of enactment of that Act, review, research, conduct hearings on, and submit to
the parties represented on the International Joint Commission a report that describes the success of current policies of governments in the United States and Canada having jurisdiction over the Great Lakes in anticipating and preventing biological invasions of the aquatic ecosystem in the Great Lakes, including—

“(A) an analysis of current Federal, State or Provincial, local, and international laws, enforcement practices, and agreements;

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

“(C) recommendations of the International Joint Commission for means by which to improve and harmonize the policies and enforcement practices referred to in clause (i); and

“(2) Mexico, to ensure coordination of efforts of the United States with efforts of Mexico to manage invasive species established in the United States-Mexico border region.”.
TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

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

“SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

‘‘There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2007 through 2011.’’.

TITLE VI—CONFORMING AMENDMENTS

SEC. 601. CONFORMING AMENDMENTS.

(a) Repeal of Section 1103.—Section 1103 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4713) is repealed.

(b) Miscellaneous Amendments.—The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 is amended—

(1) by striking “AQUATIC NUISANCE” in the heading for title I of Public Law 101–646 (104 Stat. 4761) and inserting “AQUATIC INVASIVE SPECIES”;
(2) by striking “Nuisance” in the heading for subtitles B and C of title I of Public Law 101–646 (104 Stat. 4761 et seq.) and inserting “Invasive”; 

(3) by striking “Nuisance” in section 1001 (16 U.S.C. 4701 note) and inserting “Invasive Species”; 

(4) by striking “Nuisance” each place it appears and inserting “Invasive”; 

(5) by striking “nuisance” each place it appears and inserting “invasive”; 

(6) by striking “nonindigenous” in section 1104(b)(1) (16 U.S.C. 4714(b)(1)) and inserting “invasive”; 

(7) by striking “nonindigenous” in section 1002(b)(4) (16 U.S.C. 4701(b)(4)); 

(8) by striking the heading for section 1202 (16 U.S.C. 4722) and inserting the following: 

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

(9) by striking the heading for section 1204 (16 U.S.C. 4724) and inserting the following: 

“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGEMENT PLANS.”; and 

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

(A) in subsection (a) by striking the subsection heading and inserting the following:
“(a) Studies on Introduction of Aquatic Invasive Species by Vessels.—”; and

(B) in subsection (b)—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(c) References in Other Laws, Etc.—Any reference to the Aquatic Nuisance Species Task Force in any other Federal law, Executive Order, rule, regulation, or delegation of authority, or any document or pertaining to the Aquatic Nuisance Species Task Force or a member or employee of the Aquatic Nuisance Species Task Force, is deemed to refer to the Aquatic Invasive Species Task Force or a member or employee of the Aquatic Invasive Species Task Force, as appropriate.

(d) Short Title References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 is deemed to refer to the Nonindigenous Aquatic Invasive Species Prevention and Control Act of 1990.

(e) Effective Date.—Except as otherwise provided in section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711),
1 as amended by title I, the provisions of that title as so amended take effect on the date of enactment of this Act.